

TRANSCRIPT OF THE INQUIRY

1 Thursday, 16 March 2023

2 (10.00 am)

3 (Proceedings delayed)

4 (10.05 am)

5 DETECTIVE SUPERINTENDENT INSPECTOR NICOLA SHEPHERD

6 (continued)

7 Questions from MS THOMSON (continued)

8 LORD BRACADALE: Good morning, Superintendent Shepherd.

9 THE WITNESS: Good morning.

10 LORD BRACADEL: Ms Thomson.

11 MS THOMSON: Good morning, Superintendent.

12 Yesterday afternoon we began to talk about your role
13 within the gold, silver command structure and you've
14 explained that in the Gold Group meetings you were one
15 of a number of bronze commanders and that your
16 responsibilities were portfolio based, around community
17 impact and resourcing and welfare.

18 Can we look at your operational police statement,
19 please, PS00643. If we can go to the second page of
20 that statement, where you say at the second paragraph
21 from the top -- sorry, the second page of the
22 statement -- I think I might have a different version,

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1 sorry. If we scroll back up a little bit again. There
2 we are. It's the fourth paragraph down on this version:

3 "At 11.30 hours, same date, I attended Gold Group
4 meeting chaired by ACC Nicholson, my responsibilities
5 around this incident centred upon police resources,
6 community issues and preparation of a Community Impact
7 Assessment."

8 And that's in line with what you told us yesterday
9 afternoon --

10 A. Yes.

11 Q. -- about your portfolio responsibilities.

12 Can we turn to the minutes from the first Gold Group
13 meeting. They're PS06491. You can see that these are
14 the minutes from the meeting at 11.30 on 3 May at
15 Kirkcaldy Police Station. All parties present are
16 named, and we see just at the bottom of the screen
17 Chief Inspector Shepherd, as you were at that point in
18 time.

19 Can we scroll through the minutes, please, until we
20 reach agenda item 6:

21 "Community issues - (Safer Communities/CI Shepherd).
22 "Allocated to CI Shepherd who was to make local

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1 elected members aware and also liaise with Fife Migrant
2 Forum and the independent advisory Service.

3 "Community impact was to be considered including
4 community reassurance."

5 You were to "make local elected members aware".

6 Now, yesterday I asked you about the local elected
7 members, I had mistakenly thought they were elected to
8 membership of a group associated with the police, but
9 you've in fact explained that they're elected by
10 constituents to particular wards.

11 A. That's correct.

12 Q. So, if I understand correctly, they are in effect local
13 councillors?

14 A. Councillors, yeah, that's right.

15 Q. So the local elected members are councillors, and you
16 were allocated the task of making them aware.

17 What was the purpose of making the local councillors
18 aware of the incident?

19 A. Just probably similar to what I spoke about yesterday,
20 so the -- my role was going to be looking at community
21 tensions, you know, community impact, so to allow me to
22 assess that impact and have that, you know, that

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1 scanning and monitoring capacity, then one of the means
2 by which I was going to do that was through elected
3 members. So that's how, you know, I did that on
4 a day-to-day basis with any other incident that may
5 happen. So the specific action there is make the
6 elected members aware, because I'm going to rely on them
7 to come back with any information that they hear that we
8 may need to act upon or know about as well.

9 Q. So you would provide them with information about any
10 significant incident in the hope and anticipation that
11 they would then feed back to you information that was
12 relevant to your monitoring of community tension?

13 A. Yeah, basically, and to reassure them as to, you know,
14 what we were doing.

15 Q. Now that I understand fully who the elected members
16 were, can you help us to understand how many there were
17 for the Kirkcaldy or wider Fife area?

18 A. I mean, not many, but 10 to 15 approximately.

19 Q. Was that for Kirkcaldy or for Fife as a whole?

20 A. For Kirkcaldy.

21 Q. Was it your task to make contact with all of them on
22 an individual basis?

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1 A. That was the action from recollection.

2 Q. And what means of communication did you have with them;
3 would it be by telephone, by email?

4 A. I think possibly both, to be honest.

5 Q. So you would have current contact details for the local
6 councillors and a means of making contact with them for
7 the sharing of information around a significant
8 incident?

9 A. Yeah.

10 Q. Returning to the minutes, there is reference to you
11 liaising with Fife Migrant Forum. Who are the Fife
12 Migrant Forum?

13 A. So Fife Migrant Forum are a body that clearly represent
14 migrants in Fife, so a mixed representation of
15 ethnicities, nationalities, that obviously exist to
16 support diverse communities in Kirkcaldy. Fife, sorry,
17 apologies.

18 Q. How big is their membership?

19 A. I wouldn't be able to say.

20 Q. Do you know how members come to be on the forum; is
21 there an election process?

22 A. I'm not sure, to be honest.

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1 Q. You don't know. Had you worked with Fife Migrant Forum
2 before?

3 A. I can't recall any specific examples. Possibly.

4 Q. You say that they represent people from a variety of
5 different backgrounds, were you aware of the ethnic
6 make-up of the Migrant forum?

7 A. I think I was probably aware enough to know it was
8 a mixed make-up within the forum.

9 Q. Were you aware on 3 May of 2015 whether there was anyone
10 on the forum who was black?

11 A. I wasn't aware of that, no.

12 Q. African?

13 A. I wasn't aware, no.

14 Q. Muslim?

15 A. I wasn't aware, no.

16 Q. What was the purpose of liaising with the forum?

17 A. At that point clearly that's the action that's come from
18 gold, so -- and I don't think I engaged them that day,
19 I think that was done through Safer Communities staff.
20 I certainly don't recall speaking to the Fife Migrant
21 Forum or a representative thereof, on that day. So
22 I think that was done by a member of the Safer

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1 Communities staff.

2 Q. What would have been the purpose of making contact with
3 them? What is their remit? How might they have been
4 able to help you?

5 A. I suppose going back to that, the scanning and analysis
6 that I was looking to do to monitor, you know, community
7 impact was reaching out to representatives of our
8 community in Kirkcaldy to help us, you know, be informed
9 as to how that impact was being felt.

10 Q. Returning again to the minutes, there's reference there
11 to you also being tasked to make contact with or to
12 liaise with the independent advisory group. Tell us
13 about the independent advisory group. Sorry, do you see
14 that? It's four lines up from the bottom of the screen.

15 A. Oh, sorry, yeah, I do see it. So the independent
16 advisory group became probably more commonly known as
17 the lay advisory group that was put in place. So that
18 group was made up of representatives from diverse
19 communities to come and basically engage with, you know,
20 police colleagues, including myself, to bring that
21 knowledge of local communities.

22 Q. There's a lay advisory group made up of individual

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1 members from diverse communities. Are they individually
2 known as lay advisers?

3 A. Yes.

4 Q. We've heard talk of lay advisers.

5 A. That's how I, you know, would know them, yeah.

6 Q. Do you know how lay advisers found their way on to the
7 advisory group?

8 A. No.

9 Q. Do you know how many members there were in the group
10 back in May of 2015?

11 A. No (Shakes head).

12 Q. Do you know what the make-up of the lay advisory group
13 was?

14 A. No.

15 Q. Do you know whether in May of 2015 there was anybody on
16 that group who was black?

17 A. I couldn't say for certain

18 Q. Or African?

19 A. Sorry, on the lay advisory group that came to --

20 Q. On the lay advisory group.

21 A. Sorry, yeah. Well, I do, because clearly the lay
22 advisory, you know, members that we involved came from

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1 different communities.

2 Q. What communities did they come from?

3 A. The two advisers were a Polish gentleman and, from
4 memory ... (Pause) ... I don't remember. I think the
5 second lay adviser was certainly Muslim, nationality I'm
6 not sure.

7 Q. Right. We will come to how it came to be that these two
8 individuals provided assistance to you, but going back
9 to 3 May of 2015 when you were asked to make contact
10 with the lay advisory group, did you know at that time
11 whether there would be any members within that group who
12 were black?

13 A. I didn't specifically, no.

14 Q. Or Muslim?

15 A. Not specifically, no.

16 Q. Or African?

17 A. Again, not specifically.

18 Q. Can we pause here, we will return to the minutes, but it
19 might be helpful at this point to have a look at the
20 lay-community advisers standard operating procedure,
21 which is PS11955.

22 If we scroll down a little, please:

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1 "Lay-community advisers.

2 "Standing operating procedures."

3 And we see that it was the version that was in force
4 in May of 2015.

5 Have you seen this before, Superintendent?

6 A. From memory, no.

7 Q. We've heard that there is a vast number of SOPs on the
8 intranet. If we can scroll through it, it's quite
9 a short SOP, and perhaps go to paragraph 1.3, where it
10 says that:

11 "Lay/Community Advisers are independent persons who
12 through their backgrounds or employment have
13 a particular knowledge of a community group, but who do
14 not necessarily represent that community. The
15 Lay/Community Advisers are available to advise on all
16 areas of diversity, race, religion, sexual orientation,
17 faith, disability, gender and gender identity.

18 Objectivity, insight and an independent overview are
19 regarded as necessary skills as well as an ability to
20 communicate and relate to a range of people at all
21 levels in society. The advisers are comprised
22 predominantly of external community members, but in some

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1 areas a number of Police Officers and members of Police
2 Staff are also available to give advice based on their
3 community backgrounds or personal knowledge.

4 Lay/Community Advisers are available to be utilised at
5 a tactical and operational level, where advice may have
6 a bearing on an incident/investigation or event."

7 Does that fit with your understanding of the remit
8 of the lay advisory group?

9 A. Yes.

10 Q. If we can scroll down to 3.1, please:

11 "Roles and responsibilities.

12 "The role of the Lay/Community Adviser may include:

13 "Monitor hate crime.

14 "Provide advice in critical incidents."

15 And as you've explained to us this was a critical
16 incident:

17 "Review Equality Impact Assessments.

18 "Provide advice and review policies and procedures.

19 "Sample complaints against the police."

20 At 3.2 we see examples of when lay or community
21 advisers can be utilised:

22 "Advise on the potential impact of an incident on

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1 specific communities."

2 And that, I think, is what you explained to us would
3 be the reason for making contact with the lay advisers;
4 it's part of your scanning and your monitoring of
5 community impact.

6 "Advise on issues specifically relevant to the
7 individual or community affected.

8 "Advise on any potential impact, adverse or
9 otherwise, from a proposed course of action by the
10 police."

11 Again, does what you read on the screen today fit
12 with your understanding of the role of the lay advisory
13 group?

14 A. It does, yeah.

15 Q. Had you worked with them before?

16 A. No.

17 Q. Can we return, please, to the minutes from the first
18 Gold Group meeting.

19 (Pause)

20 The first one, that's at 11.30, sorry.

21 (Pause)

22 PS06491.

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1 (Pause)

2 Lovely, thank you. Again, if we can scroll back to
3 point 6 on the agenda.

4 (Pause)

5 So we've discussed the first sentence under bullet
6 point 6, you making contact with elected members, Fife
7 Migrant Forum and the independent advisory group:

8 "Community impact was to be considered, including
9 community reassurance."

10 Now, this appears to be an agenda item, and I wonder
11 what discussion there was at that first Gold Group
12 meeting around community impact and community
13 reassurance. Can you help us with that?

14 A. My recollection now is pretty limited, so I don't recall
15 much conversation about it, that's not to say there
16 wasn't, but now, no, I'd be struggling to recollect.

17 Q. And the final point under item 6 is that:

18 "[Redacted] request to be submitted via SCD Internet
19 Investigations re monitoring of social media."

20 And I wanted to ask you some questions about that.

21 What discussion was there at the Gold Group meeting
22 around monitoring of social media?

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1 A. I don't recollect now.

2 Q. What might be the purpose of monitoring social media?

3 A. Probably, as I spoke about yesterday, so it would just
4 be that: what's the information that's, you know, being
5 spoken about this incident that we would need to either
6 know about, monitor and assess to make, you know,
7 an assessment of, does that then mean there's
8 a community impact?

9 Q. So it would be another strand or stream of information?

10 A. I think that's what that reference is. But without
11 a real recollection of it being discussed on the day.

12 Q. Do you recall what social media was to be monitored?

13 A. No.

14 Q. Whose social media was to be monitored?

15 A. No, but it reads to me it's quite a general, you know,
16 social media presence as opposed to a direct feed,
17 clearly it doesn't mention that, so ...

18 Q. So would this be things like Facebook, Twitter?

19 A. Yeah, I'm certainly not Internet Investigations, but
20 broadly that's where I -- I think that is, yeah.

21 Q. Would this be information that was, if you like,
22 publicly available rather than private information or

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1 for example a private Facebook page?

2 A. Publicly available, yeah.

3 Q. Can you assist us in understanding whose social media
4 accounts were likely going to be the subject of this
5 monitoring?

6 A. Not from that, no.

7 Q. Do you know whether it would have included, for example,
8 friends or family of Sheku Bayoh?

9 A. Erm, I don't recollect that.

10 Q. Might there have been a reason to monitor the
11 social media, the public social media posts by friends
12 and family of Sheku Bayoh?

13 A. If it was deemed appropriate and proportionate, then ...
14 but without knowing what the ask was that was made to
15 SCD Internet Investigations unit, I'm not exactly clear
16 what was asked for. But my general understanding is it
17 would be open, public social media.

18 Q. If it's open and public, why is it that there's a need
19 to make a request via SCD Internet Investigations in
20 order for the monitoring to be carried out?

21 A. Just because then it would be done in a unified way, as
22 opposed to asking me in particular to go and do it,

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1 I wouldn't have access to, you know, to a facility to do
2 that. Our computers are all networked, so they would --
3 that was the action that was given to the Internet
4 Investigations unit.

5 Q. I see, so SCD Internet Investigations, they were the
6 people who were to carry out the monitoring?

7 A. Yeah.

8 Q. I see, so I think I misread this, I thought that
9 a request had to be made through them for
10 authorisation --

11 A. No, no. No.

12 Q. -- for you to carry out the monitoring?

13 A. No. That was the action. That's my interpretation of
14 that. That reference in the minute.

15 Q. Alright. And is this a process that you're familiar
16 with, something that you've come across before?

17 A. Yeah.

18 Q. In what sort of incidents?

19 A. Most, you know, incidents of -- you know, that I think
20 there's going to be a community impact, and that's not
21 unusual.

22 Q. And certainly yesterday at the beginning of your

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1 evidence when you spoke about all the different ways
2 that information might come to you: from media, from
3 intelligence, from officers, from members of the public,
4 would social media simply be another source of
5 information that would help you to monitor the impact of
6 an incident on a particular Community?

7 A. It would be, yeah.

8 Q. If we can scroll down a little, please, to agenda
9 item 8, "Staff welfare":

10 "Allocated to [Chief Inspector] Trickett and
11 Police Federation reps (PC Givan)."

12 I wanted to look at that entry only in passing
13 because I understand you also had some degree of
14 responsibility for the welfare of the officers involved
15 in the incident at Hayfield Road and I wondered if you
16 might be able to explain how your role and
17 responsibilities fitted with those of
18 Inspector Trickett, who we've heard was a post-incident
19 manager responsible for balancing the welfare of the
20 officers with the needs of the investigation, and
21 Constable Givan, who was the Police Federation
22 representative?

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1 A. So Chief Inspector Trickett, Chief Superintendent now
2 obviously, was managing the staff welfare from the point
3 of the PIM role that he was performing, so very much on
4 that day their welfare clearly was encompassed in the
5 PIM procedure. I was going to pick up the overall
6 welfare, you know, once that PIM procedure was either
7 completed or moved on to the point that, you know, that
8 it would fall to me.

9 Q. So you would pick up where he left off, essentially --

10 A. Yeah, basically. I mean, I'm overseeing welfare on all
11 staff at Kirkcaldy, so they were clearly members of
12 staff, but just at that point in time, because they fell
13 under the PIM procedure, that that took primacy in terms
14 of, you know, dealing with their welfare and needs. And
15 in the aftermath of that I would pick it up like I would
16 pick up all the rest of the staff that work at
17 Kirkcaldy.

18 Q. And what about Constable Givan from the
19 Police Federation; how did her role sit alongside yours?

20 A. Complemented that role, you know, PC Givan was clearly
21 a member of the Scottish Police Federation, so that was
22 a representative of their staff association as well.

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- 1 Q. Looking back to the minutes, we have item 9,
2 "Resources", and in brackets:
3 "(DCS Boal/CI Shepherd)."
4 And I want just to ask you, where we see names in
5 brackets does that suggest that the individuals named
6 gave an input to the meeting or does it suggest that
7 there were perhaps action points for those individuals
8 to take away, possibly both?
9 A. Possibly both, it's quite hard to tell, but yeah, either
10 they're the lead in providing an update or they're
11 probably taking something away from the meeting, would
12 be my suspicion with the wording of that.
13 Q. Thank you. So there's reference here to:
14 "[Redacted] high-viz reassurance patrols."
15 Can you tell us a little bit about those?
16 A. Yeah, I think I mentioned yesterday, so, you know, part
17 of what we would -- or certainly I would put into place
18 in my role would be that reassuring presence. High-vis
19 just means that that would be a uniformed presence. So
20 the ask clearly from gold is -- I don't know what the
21 first bit is, it's redacted there, but it would --
22 reading it back it's to make sure we've got, you know,

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1 a presence, a visible presence back on the streets of
2 Kirkcaldy.

3 Q. Beneath that:

4 "Also local staffing to be considered for business
5 continuity."

6 Is this what you explained to us yesterday that you
7 had to effectively replace team 4, who were in the
8 canteen?

9 A. Basically, yeah, that's what that is.

10 Q. The next Gold Group wasn't until half past 2, or shortly
11 after half past 2 in the afternoon. I'm interested to
12 know what, if anything, you did in terms of the actions
13 that had been tasked to you between the conclusion of
14 the first Gold Group meeting and your attendance at the
15 next meeting at 2.40?

16 A. I honestly couldn't say what happened in that, unless
17 there's something in my notes that would assist my
18 recollection, but I don't recall specifically what I was
19 doing between both meetings. But yeah, if I was given
20 that action, then it would certainly be -- that's what
21 I would be looking to start instigating.

22 Q. Would it help you to look at your notes?

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1 A. Possibly, yeah.

2 Q. Your daybook, I think, should be in the folder. Both
3 your notebook and daybook should be in the folder.

4 Let's begin with your notebook. Each page has been
5 given a different reference number, but if we begin with
6 PS18479, just so you can satisfy yourself that this is
7 your notebook.

8 A. Yeah.

9 Q. Sorry, do you have the hard copy also?

10 A. I do, I do, yeah, thank you.

11 Q. The first page that's relevant to 3 May is PS18480.

12 A. Yeah, that's correct.

13 Q. We see here Sunday 3 May 2015, KDY I think must be
14 Kirkcaldy?

15 A. Yeah, it is, yeah.

16 Q. "Recall to duty 0930 hours.

17 "Around 1630/1645 contacted by DS Dursley, re issues
18 ongoing with family of deceased."

19 That appears to be the first entry that you've made
20 in your notebook for that day. It relates to events
21 that we'll go on to discuss later today that took place
22 around about 4.30, but there doesn't appear to be

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1 anything in your notebook between you being recalled to
2 duty at 9.30 and being contacted by DS Dursley at 4.30.

3 A. Yeah.

4 Q. So it may be that the notebook doesn't take us any
5 further forward.

6 A. If my daybook's in here, it would be more relevant,
7 I think.

8 (Pause)

9 Q. Is the daybook there Superintendent--

10 A. It is, and I'm just trying to find the right day, the
11 actual 3 May. I'm not sure if it is, actually. I don't
12 think it is.

13 Q. You don't think it is. All right, we can maybe come
14 back to that. I'll make sure that we have that
15 available after the break. But for now, there doesn't
16 seem to be an entry in the notebook --

17 A. No.

18 Q. -- that assists us with what happened between the first
19 and second --

20 A. That's right.

21 Q. -- Gold Group meeting, and I appreciate there's some
22 eight years have passed and you say at this distance you

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1 don't recall.

2 So let's move on and have a look at the minutes from
3 the 14.40 meeting, and that's PS06514.

4 Sorry, that's a handwritten minute. It is in fact
5 PS07268, which is the typewritten version, sorry. My
6 fault. Here we are. So again, if we scroll down the
7 list of attendees we can see 14.40 hours on 3 May and
8 Chief Inspector Shepherd, you're on the list of
9 attendees.

10 Again, if we can go to point 6 on the agenda:

11 "Community issues - (Safer
12 Communities/CI Shepherd)."

13 What is Safer Communities, is that an organisation
14 or ...?

15 A. So it's a division in Police Scotland a national
16 division that -- it's PPCW now, Partnerships, Prevention
17 and Community Wellbeing is what it's titled now, but at
18 that moment in time it was called Safer Communities.

19 Q. Was there somebody from Safer Communities present?

20 A. We had (inaudible - overspeaking) --

21 Q. -- scroll back up we can see the list of the attendees.

22 A. At that point, no.

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1 Q. No. All right, let's return to bullet point 6:

2 "Discussed and Chief Inspector Shepherd to contact
3 elected members, Fife Migrants Forum with regards to the
4 incident, chairperson of Fife Migrants Forum to be
5 invited in to discuss."

6 So this is in very similar terms to the entry in the
7 minutes from the meeting at 11.30, and I'm wondering why
8 the action points from the meeting at 11.30 have been
9 repeated in the meeting at 2.40 in the afternoon?

10 A. I don't know, but then there's other points that are --
11 seem to be reflective of that first meeting as well, ie
12 CIA, staff welfare, so I think they were almost
13 sub-bullets within the minute of -- that the gold would
14 clearly have or be seeking updates on, so that is my
15 sense.

16 Q. The main difference seems to be that there's now
17 a reference to the chairperson of Fife Migrants Forum to
18 be invited in to discuss. Do you recall who the
19 chairperson of Fife Migrants Forum was at that point in
20 time?

21 A. I don't.

22 Q. Do you recall what their ethnicity was?

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1 A. I don't.

2 Q. Can you help us understand what the purpose was of
3 inviting them in to discuss?

4 A. Just similar to the last point, that, you know, that we
5 could -- you know, as per that lay advice SOP, so it's
6 to give us, you know, an understanding of different and
7 diverse groups within our community, so we can be better
8 informed.

9 Q. Point 7, "CIA review". Is that community impact
10 assessment?

11 A. It is, yeah.

12 Q. Again, that's got your name after it:

13 "Tasked to CI Shepherd who was also to consider
14 security of Kirkcaldy Police Station re media interest
15 and any community tensions."

16 Now, we're going to spend quite a lot of time
17 looking at the community impact assessment later on, so
18 we'll perhaps leave that to one side for now, but what
19 were you tasked to do in relation to the security of
20 Kirkcaldy Police Station re media interest and community
21 tension?

22 A. From memory I'm probably struggling to remember that

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1 now, but in a general sense the gold wasn't particularly
2 familiar with Kirkcaldy Police Station, so at that point
3 some stations have different measures of security that
4 prevent access, Kirkcaldy didn't, it's open, you can
5 basically, you know, access it reasonably readily. So
6 I think it was a general point of we were anticipating
7 is there a potential that media may attend at Kirkcaldy
8 Police Station, if so how would we, you know, facilitate
9 that.

10 Q. Moving down to point 9, "Resources", again DCS Boal and
11 yourself are mentioned:

12 "Maintain business continuity.

13 "Staff will be utilised from across Scotland to
14 facilitate resilience~..."

15 Again, does that fit with what you said yesterday
16 afternoon?

17 A. Yeah, and obviously because DCS Boal's there it's not
18 just resilience in the sense of the uniformed officers
19 I had locally, so that would be clearly DCS Boal looking
20 at the crime investigation resilience resource, so
21 I think it's almost like a dual action there.

22 Q. So she would be dealing with detective officers, you

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1 would be dealing with --

2 A. I assume so, because she's been named in the action
3 there.

4 Q. Can you explain what action you took after this second
5 Gold Group meeting?

6 A. I would hope that, you know, I put those actions into
7 place, I can't recall now exactly the activity, but just
8 due to the passage of time, but certainly I took those
9 actions away so there would be an absolute expectation
10 that I would update back to gold as to what I'd done.

11 Q. So far as the chairman of the Fife Migrants Forum is
12 concerned, were they invited in for a chat or
13 a discussion?

14 A. Not that day.

15 Q. No, but at a later point?

16 A. From memory, I think it was the following day, but
17 I couldn't be specific. Again, it would come back,
18 there would be minutes from that meeting, whether it was
19 the following day or the days that preceded -- sorry,
20 followed.

21 Q. Do you recall that person, that individual, coming in to
22 Kirkcaldy Police Station for a discussion?

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1 A. I think it was Kirkcaldy Police Station they came into.

2 Q. Or a discussion taking place?

3 A. Yeah.

4 Q. That would be between yourself and that individual?

5 A. Yes.

6 Q. And you think that would have been the following day?

7 A. Yeah, certainly in the days that followed.

8 Q. Is that the sort of information that might be captured
9 in the community impact assessment?

10 A. Yes, it will be.

11 Q. We'll perhaps come back to that when we look at the
12 community impact assessment.

13 I'd like to ask you about something else now, if you
14 go back to your Inquiry statement, please. If we can go
15 to paragraph 13:

16 "Attendance at the canteen.

17 "I'm asked about when I went to the canteen to speak
18 with the officers on 3 May. I can't recall the time
19 I went down or if it was before or after that first
20 Gold Group meeting. I must have only been there for
21 a few minutes. The purpose of that visit was to check
22 on their welfare, to make sure they'd been asked if

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1 there was anything they were going to need. I think by
2 that point, and again I don't know the exact time they'd
3 been there for what I believed would've been a couple of
4 hours by that point, give or take. I think I asked
5 an open question such as, 'Is everybody okay? Does
6 anybody need anything?' I'm asked who was in the
7 canteen at that time, I couldn't categorically say that
8 all of the nine officers were there. I don't think
9 Nicole Short was there at that point, but I can't be
10 sure about that. I note that I can recall Amanda Givan
11 was present from the Police Federation. I note my PIRC
12 statement dated 18 June 2015 ... at page 2 records
13 'I can recall that Amanda Givan was present from the
14 Police Federation. I'm unsure if anyone else other than
15 the principal police officers, with the exception of
16 Nicole Short, were present.' I can't recall anything
17 beyond that."

18 So you've explained that you had a role in relation
19 to welfare. How did you go about checking on the
20 officers' welfare when you went to see them in the
21 canteen?

22 A. Just as it's probably outlined within that paragraph 13,

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1 I think I asked an open question as to how they were and
2 was there anything I could do. It was -- at that point,
3 it was as simple and as basic as that.

4 Q. This was at a point in time when the PIM procedures were
5 in place or shortly to be put in place; is that right?

6 A. I think only because I know who's being described,
7 I don't think the PIM was there.

8 Q. Right, I beg your pardon, the PIM wasn't there, wasn't
9 there yet.

10 A. I certainly don't seem to document either at that point
11 and I think when I'm asked the questions and I reflect
12 back to my PIRC statement of 18 June 2015 I don't
13 reference the PIM being there, so ...

14 Q. All right. I think we heard evidence from him that he
15 arrived, I'll be corrected if I'm wrong, mid-morning.

16 A. Okay, I don't actually know when he arrived.

17 Q. So this may have been before he arrived?

18 A. Possibly, he just wasn't there.

19 Q. But certainly Amanda Givan was with the officers at that
20 point in time?

21 A. Yeah, yeah.

22 Q. I appreciate that your role was a welfare one but as

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1 a senior officer yourself do you have any concerns
2 around the officers being together in that way in the
3 canteen, on their return from Hayfield Road?

4 A. At that point, no.

5 Q. We can turn to paragraph 14:

6 "As to what was said, I don't think anything was
7 said by the officers other than an acknowledgement that
8 I'd been down and maybe a thanks for coming down to
9 speak to them. Nobody there asked me for anything or
10 for anybody to be contacted on their behalf.

11 Amanda Givan was there, so I assumed that Amanda would
12 have been asking the same question around whether
13 anybody was needing anything or if anyone wanted someone
14 contacted. Once I asked that, if there was a response,
15 I don't recall it, and it was such a short conversation
16 that I couldn't specifically tell you what I said but
17 the purpose was purely to check if everyone was okay and
18 if there was anything they needed of me. I don't
19 remember anybody asking for anything and after that
20 couple of minutes of being there, I basically left and
21 didn't return to the canteen."

22 Did you have any further dealings with the officers

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1 in the course of that day?

2 A. No.

3 Q. Can we look at paragraph 15, please:

4 "I'm asked about [constable] Daniel Gibson's PIRC
5 statement ... where it states 'I remember that
6 CI Nicola Shepherd, the Kirkcaldy CI came in at one
7 point, she said that the family have the right to know
8 what happened. She only came in for about 5 minutes.
9 I don't know why she said that, I'm assuming that was
10 because the Federation officer ... had told us to say
11 nothing at that stage.' I don't have any recollection of
12 that. That's not to say I didn't say it. I don't
13 recall that."

14 Now, you'll have had time to reflect since you gave
15 this statement to a member of the Inquiry team, does it
16 remain your position today that you don't recall that?

17 A. I don't.

18 Q. And was it your view that the family had a right to know
19 what had happened?

20 A. Yes.

21 Q. Were you aware at that point in time that the officers
22 hadn't given statements?

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1 A. I don't think I knew that.

2 Q. I'd like to take you to a point further on in the
3 afternoon, and if we can perhaps begin by looking at
4 paragraph 26 of your statement. (pause)

5 When we looked at your notebook a few moments ago
6 there was a reference to officers Mitchell and Parker.

7 If we read through paragraph 26:

8 "In my operational statement ... at page 2 'About
9 1645 hours, same date, I was contacted by DS Dursley and
10 informed that two CID officers (DCs Mitchell and Parker)
11 had attended at the home of the deceased's family and
12 were faced with a confrontational atmosphere. Both
13 officers returned to Kirkcaldy Police Office following
14 the meeting and updated myself and C/Supt McEwan. It
15 was evident at the time that the officers had been
16 supplied with a pre-prepared brief with which to update
17 the family'. I'm asked if I was aware what the content
18 of that brief was that was provided to the family,
19 whether in advance or in the aftermath. From my
20 recollection, I wasn't aware beforehand. I think this
21 was the first I was aware was when they came back and
22 explained that they'd been to the family's home address,

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1 and they'd faced a number of questions that they were
2 unable to answer. It was at that point I became aware
3 that there had been a pre-planned brief. I'm asked if
4 I saw the wording of the brief that had been provided to
5 the officers to give to the family either because it was
6 written down or perhaps, I had been told what the brief
7 said. Possibly. I seem to remember being aware it was
8 quite a short brief, six or seven lines from
9 recollection, I'm assuming from that I must have seen it
10 written down. However, whether I actually had
11 an opportunity to read it or had simply been aware of it
12 I'm not sure. I'm asked whether the officers told me
13 who provided the brief to give to the family. They
14 possibly did but I don't recall now. I'm asked whether
15 I remember having any concerns about what the officers
16 were told to tell the family. Nothing that I can
17 remember."

18 Now, we've heard evidence from
19 Detective Constable Mitchell that the brief was in the
20 following terms:

21 "Following an incident this morning in the
22 Hayfield Road area of Kirkcaldy, officers from

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1 Police Scotland have been attempting to arrest
2 Sheku Bayoh, during which time he has become
3 unconscious, conveyed to hospital by the Scottish
4 Ambulance Service and despite best efforts by hospital
5 staff died shortly after 9 am."

6 Does that fit with your recollection of the terms of
7 the brief and the length of the brief?

8 A. It certainly fits with the length of the brief that
9 I can recollect, but as for the content, I wouldn't be
10 able to say.

11 Q. Can we look at your notebook, we'll go back to the page
12 that we looked at just a few moments ago, it's PS18480:

13 "Sunday 3 May 2015 [Kirkcaldy]
14 "Recall to duty 0930 hours.

15 "Around 1630/1645 contacted by DS Dursley re issues
16 ongoing with family of deceased and two DCs at home
17 describing confrontational atmosphere.

18 "DCs Mitchell and Parker return and speak to
19 [Chief Superintendent] McEwan and I re concerns raised
20 by family, lack of information and transparency on
21 events surrounding the death.

22 "Brother-in-law of deceased very vocal about

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1 demanding to see [Chief Superintendent] or he would
2 escalate to someone in Glasgow [redacted]? Nfd."

3 Nfd, would that be not further described?

4 A. Yeah.

5 Q. "Perceived community tensions and overall
6 dissatisfaction with updates provided. ACC Nicholson
7 informed of intention for [Chief Superintendent] and
8 I to attend and speak to the family."

9 I think we can stop there. So I would like to ask
10 you some questions about that. You were contacted by
11 Detective Sergeant Dursley in the first instance and
12 made aware that there was an issue and DCs Mitchell and
13 Parker then returned to the police station and spoke
14 with yourself and Chief Superintendent McEwan, and from
15 what you've written in your notebook it seems clear that
16 you took from what they told you that the family's
17 concerns related to a lack of information and
18 transparency?

19 A. Yes.

20 Q. Can you elaborate on that at all and help us to
21 understand what the family's concerns were?

22 A. Not specifically...

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1 Q. You also refer to perceived community tensions. What
2 were the perceived community tensions?

3 A. I wouldn't be able to say because I think that's what's
4 been translated to me.

5 Q. Oh, I see.

6 A. That has come back, that's my capture of what the
7 detectives have come back and told us.

8 Q. So they've reported to you, whether using that language
9 or other language --

10 A. Yeah.

11 Q. -- you interpreted that to be --

12 A. Yeah.

13 Q. -- that there are community tensions.

14 Were you aware that this was in fact DC Mitchell and
15 DC Parker's second visit to see the family?

16 A. No.

17 Q. And were you aware that this was the second death
18 message that they'd given to the family?

19 A. No.

20 Q. Were you aware that the first death message didn't
21 mention the involvement of police in the events leading
22 up to Sheku Bayoh's death?

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1 A. I didn't know that, no.

2 Q. Can we return to your Inquiry statement, please, and
3 look at paragraph 27:

4 "I'm asked about training for police officers to
5 pass a death message. The investigation of death is
6 a core function of a police officer and training begins
7 as early as the initial training on recruitment through
8 the Scottish Police College. That training will not
9 only look at the responsibilities of the police to
10 report death to COPFS, but also how to deliver death
11 messages and dealing with bereaved families and next of
12 kin compassionately and sensitively. In terms of my
13 training over the years, it commenced back when I joined
14 as a constable and I attended numerous deaths with my
15 tutor who was experienced in dealing with families and
16 passing death messages. I learned a lot from them and
17 also from formal training such as detective training
18 courses, first line manager training which have elements
19 of death investigation and support available to the
20 bereaved. In short, all officers will receive training
21 which will touch on passing death messages."

22 So you mention there the importance of dealing with

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1 families compassionately and sensitively. How important
2 in your view and your experience is it to tell the
3 family the truth about what has happened to their loved
4 one?

5 A. It's Fundamental.

6 Q. And what would be the likely impact if the information
7 given by the police to a family was inaccurate or
8 incomplete or misleading?

9 A. It risks losing trust and confidence in our ability to,
10 you know, investigate, potentially, in their eyes, would
11 be my thoughts.

12 Q. Look at paragraph 28:

13 "I'm asked if, in my experience, what preparation
14 should be done by officers in advance of going to meet
15 with a family to pass a death message. This can vary.
16 Sometimes there can be little time to prepare simply
17 because the nature and circumstances of the death have
18 not allowed it. What I mean by that is we operate now
19 in the knowledge that details of an incident very
20 quickly become known in the public domain and often
21 through social media. We aim to trace next of kin, in
22 person, as quickly as possible to prevent them finding

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1 out through other means and this also enables us to
2 support them as quickly as possible. If you consider
3 the case of a fatal road traffic accident which has just
4 occurred, there is a pressing need to identify the
5 deceased and locate their next of kin. The next of kin
6 may not live in the area of the accident and we would
7 need to make that request to another force area. That
8 of course is often reciprocated and in these cases we
9 will have little information about the accident or the
10 deceased and their family. Officers will do what they
11 can to understand the needs of the family before they
12 attend but there are occasions where they will be asked
13 to attend urgently with limited information. There will
14 be occasions where we have more time to check our
15 systems and understand if the family are known to us or
16 the local social work department or GP for example, so
17 we can better understand the family background. In
18 terms of other preparation, they will rely on their
19 training, experience of dealing with bereaved families
20 and their interpersonal skills to act sympathetically
21 and professionally."

22 You identify there the need to trace next of kin as

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1 quickly as possible, living in the modern world there's
2 the constant threat of people finding information out
3 through social media and not from the police, and you
4 alluded to that.

5 Now, we know that Sheku Bayoh -- we heard evidence
6 that Sheku Bayoh died shortly after 9 o'clock in the
7 morning, life was pronounced extinct at 9.04.

8 Collette Bell, his partner, provided a statement to
9 DCs Mitchell and Parker at about 11.12, and in the
10 course of giving that statement she provided contact
11 details for Sheku Bayoh's sister, Kadi Johnson, the next
12 of kin. Kadi Johnson was visited by Detective Constable
13 Mitchell and Detective Constable Parker at about 3.10 in
14 the afternoon, so that was about four hours thereby
15 after contact details for the next of kin had been
16 passed to those officers.

17 Is that as quickly as possible, in your view?

18 A. I'm probably not the best person to ask -- to answer
19 that. It would be very much from the information that
20 was known, that wasn't information that was known to me.

21 Q. But on the face of it, the information was made
22 available to the officers four hours before they

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1 attended at the Johnston's address. Is that quick in
2 any view?

3 A. Four hours isn't quick, because the example I gave maybe
4 is one where there's an out of force element. Clearly
5 I know the family were in Kirkcaldy, so that -- without
6 knowing why it took so long, as long as four hours, it's
7 difficult to say. But ...

8 Q. There has been some evidence that the delay might have
9 been due to the unavailability of FLOs.

10 A. Okay.

11 Q. In your view, would that fit well with there being
12 a four-hour delay on the face of things in sharing the
13 information with the next of kin?

14 A. I'm not -- personally I'm not sure that the requirement
15 to have a FLO would necessarily delay that, in my view,
16 but again, I'm not probably privy to all the
17 information, and I'm certainly not privy to when
18 statements were noted.

19 Q. We can ask other officers about that.

20 A. Okay.

21 Q. Can we turn to paragraph 29 of your statement, please.
22 This relates to advice that you took, you sought and

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1 obtained from Gill Boulton. You refer to your statement
2 which reads:

3 "..." [Chief Superintendent] McEwan and I agreed to
4 attend at the family home to attempt to answer some of
5 the questions being posed by the family to alleviate
6 some of their concerns'."

7 And we saw your notebook entry that referred to
8 that --

9 A. Yes.

10 Q. -- just a moment ago.

11 "'Chief Superintendent McEwan and I spoke with
12 Gill Boulton (Force Equalities Unit) prior to our
13 attendance to ascertain any cultural issues in advance
14 of the meeting'. I'm asked what cultural issues were
15 identified by Ms Boulton and discussed with us. I don't
16 recall. From memory, I think it was a generalised
17 awareness of culture as opposed to anything too
18 specific. I note my PIRC statement dated 18 June ... at
19 page 3, states that 'Before the meeting took place with
20 the family Mr McEwan, myself and Gill Boulton had
21 a meeting in my office. Gill Boulton is the Force
22 Equalities Officer. The meeting related to cultural

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1 awareness matters. By way of example it was made known
2 to us that given that the family were Muslim, it should
3 be the case that they would expect Mr McEwan to take the
4 lead in conversations with the family. I also recall
5 that it may be the case that family members would not
6 shake my hand'. I believe that this comment was noted
7 in response to a direct question I was posed by the PIRC
8 about that. If I said that, that's the best I could
9 relay. I don't remember any of the details of the
10 advice we were given now."

11 And your statement then moves on to describe your
12 visit to Mr Bayoh's family.

13 I'd like to ask you some questions about your
14 meeting with Gill Boulton, she's described by you as the
15 Force Equalities Officer. What was her role?

16 A. Again, my understanding, and I'm not the best person to
17 answer that, because up until this point I don't
18 think -- I had never met Gill Boulton before that.

19 I'd -- you know, the Force -- sorry, her title --
20 Equalities Officer, clearly was a year and a half
21 (inaudible) in Police Scotland so that post hadn't
22 existed in a force sense. I understood from certainly

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1 that conversation with her that she was going to provide
2 us with relevant information before going to see the
3 family, but other than that I wouldn't be able to
4 elaborate.

5 Q. It's perhaps a question we should ask her, to explain
6 what her role was--

7 A. I'm sure she would be able to

8 Q. -- but what was your understanding of the purpose of this
9 meeting? How did you anticipate she may be able to help
10 you?

11 A. Awareness raising was my understanding, that she was
12 going to provide us prior to us attending at the family
13 home.

14 Q. Do you recall what information you were able to give to
15 her in order for her to give you advice based on that
16 information?

17 A. No, I don't.

18 Q. And what sort of advice were you looking for?

19 A. Anything that may aid our ability to, you know,
20 inform/assist. That's why we were going there, to,
21 you know, to do our best to assist. So anything that
22 she could do to assist us in, you know, making that as

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1 productive a visit as possible was the point of that, in
2 my view.

3 Q. By the time of this meeting, were you aware that
4 Sheku Bayoh was black?

5 A. Yes.

6 Q. Were you aware that his family were from Sierra Leone?

7 A. Not as such, no.

8 Q. Were you aware that his family were Muslim?

9 A. I don't know at what point to be honest and certainly at
10 that point in the day possibly, but I'm not sure.

11 Q. I'm just wondering what information you would have been
12 able to provide to Gill Boulton so that she could give
13 you advice that was tailored to the circumstances of the
14 meeting you were about to have with Mr Bayoh's family.

15 A. My recollection is I wasn't required to brief
16 Gill Boulton, it was -- it had already been done.

17 Q. Right.

18 A. So that conversation was very much coming the other way
19 to myself and Mr McEwan at that point as opposed to us
20 briefing to then receive a response, so my assumption is
21 somebody else has clearly provided Gill Boulton with
22 an update as to what we were dealing with that day.

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1 Q. So was the meeting a little one-sided then, she was --

2 A. I think you can see from the timings of that that -- the
3 timing of that meeting and then going to meet the family
4 and then initially when the detectives came back, it's
5 a really short window of time, so it wasn't a long
6 meeting, from recollection.

7 Q. We have a statement from Gill Boulton, so I wonder if we
8 can pull that up on the screen, please, it's Inquiry
9 reference 00243. If we can scroll down, we can see here
10 that it's her statement, and if we scroll to
11 paragraphs 9 and 10, we can perhaps have a look at what
12 her role was. Paragraph 9:

13 "I have been asked to describe my role and
14 responsibilities for when I was Chief Inspector within
15 equality and diversity in National Safer Communities.
16 The role has quite a wide-ranging remit ... At that
17 point in time, we hadn't long been a national force, so
18 we were still bringing together practices and procedures
19 that the various legacy forces undertook within the
20 Safer Communities remit. But the main piece for me was
21 around about community reassurance there was a fair
22 focus on that and that wasn't just in relation to

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1 incidents like this, but also things like if there was
2 big marches, or if there was something that was going to
3 be disrupting our community and whether that's
4 a geographical community or a community formed of
5 a protected groups. National Safer Communities would be
6 there to provide that community reassurance. We were
7 also the department that had the links into our
8 community lay advisers into community groups so that we
9 could spread messages from the force or from a local
10 division to make sure that they were going into the
11 heart of communities that needed to hear that
12 information, particularly in relation to any groups who
13 would ordinarily be within harder to reach communities,
14 so there was a fair bit of work around about that."

15 She goes on to talk about going into schools and
16 that sort of thing. So does that description which has
17 come from her as to her role and responsibilities back
18 in May 2015 fit with your expectations of her role? You
19 say you hadn't worked with her before?

20 A. In a general sense, yeah.

21 Q. We can move on to paragraph 10, please:

22 "I have been asked to explain what matters I would

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1 normally be contacted for advice in terms of the on call
2 function that I had. It tended to be those at the more
3 serious end of the spectrum, so I had been contacted
4 about a number of deaths and particularly where the
5 deceased was from either an ethnic minority background
6 or from a protected characteristic whereby there may
7 have been an impact on a specific community. So,
8 situations where there was additional information or
9 understanding required about the cultural sensitivities
10 of a particular group and the needs of that group and
11 how that we might best meet them. The role of our Safer
12 Communities on-call facility was to provide that, and it
13 didn't mean that we detracted from the operational chief
14 inspectors or whoever were on the ground. We could come
15 in and have that advice to our fingertips."

16 So here she's describing the advisory role and
17 you've explained that she had been briefed by others but
18 was going to come and provide advice to you and to Chief
19 Inspector McEwan.

20 Can we look, please, at your notebook. It's the
21 page that has the reference PS18481. We see, and again
22 you refer to the timings being quite tight earlier on,

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1 we see from the marginal notes that your sit-down with
2 Gill Boulton from equalities was at 17.55. By 18.10 you
3 had been advised by DC Mitchell that the family would
4 welcome a visit from you.

5 Let's look at what you've recorded in relation to
6 your meeting with Gill Boulton:

7 "[Chief Superintendent] and I have sit-down with
8 Gill Boulton (Equalities) - my office - re any cultural
9 issues in advance of meeting. Awareness provided of
10 possibility that they may not engage with me being
11 female. Shoes removed if requested - no handshake
12 unless offered."

13 Now, were these notes made at the time of your
14 meeting with Gill Boulton or retrospectively?

15 A. I think at the time, but categorically I couldn't say.

16 Q. So it appears from this note that the advice that you
17 were given, the awareness that you were provided with,
18 was of the possibility that the family may not engage
19 with you being female, shoes may be removed if
20 requested, and no handshake unless offered. Were you
21 given any information by Gill Boulton that would have
22 helped you to understand why the family might not engage

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1 with you because you were female, there might be a need
2 to remove your shoes or that you shouldn't offer
3 a handshake unless one were offered to you?

4 A. Possibly, I just don't recall now anything further than
5 probably what I've documented there.

6 Q. Okay. And did you feel that this information that you
7 were given by Gill Boulton was sufficient for your
8 purpose, going off to meet with the family?

9 A. It was certainly helpful in terms of, you know, those
10 potential sensitivities, customs, practices, that just
11 to be aware of, and sensitive to.

12 Q. This was about raising your awareness --

13 A. Yeah.

14 Q. -- to allow you to be sensitive to considerations?

15 A. Yeah.

16 Q. Now, Mr Bayoh died after contact with the police. Were
17 you aware that there would be a need for a post-mortem
18 to take place?

19 A. Yes.

20 Q. Was there any discussion with Gill Boulton about
21 cultural or even religious requirements around death,
22 around any difficulty that the family might have with

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1 the news that there would have to be an autopsy?

2 A. Certainly not that I've recorded and I can't remember
3 any more than what's recorded there, so ...

4 Q. Well, let's go back to Gill Boulton's statement to see
5 if that might assist us. That was Inquiry 00243. If we
6 can go to paragraphs 18 and 19, let's just go straight
7 to 19, in fact. Paragraph 18 just relates to the timing
8 of the meeting. Paragraph 19 reads:

9 "I have been asked whether I remember any more about
10 the discussions I had and advice given to Garry McEwan
11 prior to his meeting with the Bayoh family. Yes. We
12 always reverted to the Police Scotland diversity
13 handbook. This is a document which gave some very
14 generic and wide-ranging and information about the
15 considerations that we might want to be aware of. I had
16 covered things like going into the house, shaking hands
17 with women, and the fact that women and men might be
18 separate and that wasn't unusual. Also that often in
19 the Muslim faith there are concerns over any post-mortem
20 or interference with a body before its burial or
21 funeral, and also that, there's often a desire to
22 achieve a funeral or a burial or what have you within

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1 a fairly swift period of time. Oftentimes where the
2 police are involved in a death, then the sense would be
3 that that might not happen in the way the families might
4 like or expect. It was a worthwhile conversation to
5 have so that when those conversations did unfold in the
6 coming days, there was at least an awareness that the
7 family may raise either concerns or questions around
8 what the process would be in terms of any post-mortem or
9 in terms of awaiting the release of the body by the
10 Fiscal and things like that so it was just to flag that
11 that the family may well raise concerns, obviously at
12 that point in time I don't think those conversations had
13 been had in any detail to the best of my knowledge and
14 that was the sort of generic advice that I was
15 providing."

16 Does that jog your memory at all, does that assist
17 you? Gill Boulton seems to recall there being some
18 discussion or some advice proffered around cultural and
19 religious sensitivities around death and the need for
20 a post-mortem. Does that help you at all?

21 A. It doesn't jog my memory. Clearly there are points that
22 are similar to what I've described, she's clearly

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1 included other points that I don't recollect now,
2 certainly.

3 Q. And can you explain why, assuming the conversation took
4 place as described by Gill Boulton, these comments
5 didn't make their way into your notebook?

6 A. I can't explain why they didn't. That's not to say they
7 didn't, you know, they weren't mentioned, I've just not
8 recorded them. But yeah, I can't explain why I've -- if
9 they were discussed-- why I haven't recorded them.

10 Q. Looking back, are there things that you think perhaps
11 might usefully have been recorded?

12 A. Yes.

13 Q. Do you think that the issues concerning cultural and
14 religious considerations around death are important
15 things to bear in mind when meeting with the family?

16 A. Absolutely.

17 Q. And that might have been useful perhaps to have made
18 a note?

19 A. Absolutely, in terms of, you know, crucial
20 considerations for us to consider, you know, the noting
21 of them would have been helpful now that I'm being
22 asked, but absolutely crucial that we were made aware of

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1 that.

2 Q. So the notes might be helpful eight years down the
3 line --

4 A. Yes.

5 Q. -- but I suppose at the time the conversation you had
6 with Gill Boulton would have been very fresh in your
7 memory when you went to have that conversation with the
8 family?

9 A. Absolutely, yes.

10 Q. Now, there is a reference at the top of that paragraph,
11 three lines down from the top, to the Police Scotland
12 diversity handbook. Is that a publication with which
13 you were familiar back in 2015?

14 A. I don't recall.

15 Q. Is it something that you consulted yourself on 3 May
16 before you went to see the family?

17 A. No.

18 Q. No, or perhaps in the days or weeks that followed?

19 A. I'm not sure what -- what it is in terms of, if it's
20 a policy document or if it's something that just sits
21 with the equalities officer, I'm not actually sure what
22 that reference is.

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1 Q. Okay. We might hear more evidence about that from
2 someone else, but it's certainly not something that you
3 consulted on 3 May?

4 A. Not that I can recall, certainly, no.

5 Q. Or in the days or weeks that followed during the period
6 of your involvement with the lay advisers and the
7 elected members and the community impact assessment. It
8 wasn't a resource that you recall using?

9 A. I don't, but then I'm not sure what's being referenced,
10 to be honest.

11 Q. I see.

12 Can we go back to Gill Boulton's statement, please,
13 that's PIRC -- sorry, it's a different statement, it's
14 her PIRC one -- 00323. This is a statement that
15 Gill Boulton gave to the PIRC. If we scroll down, we
16 will see the date of that statement, 29 June 2015, and
17 if we can go to the second page, please, and the second
18 paragraph, here we are. So reading from her statement:

19 "I arrived at Kirkcaldy at 1730 hours where I was
20 provided with a further update in relation to the
21 incident and at 1745 hours spoke with
22 Chief Superintendent McEwan and Chief Inspector

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1 Nicola Shepherd."

2 So if we pause there, this fits very much with what
3 you said a few moments ago, that you understood that
4 Gill Boulton had been briefed in advance of you and
5 Garry McEwan going to speak with her. She refers to
6 a briefing in advance of the meeting with yourselves.

7 A. Okay.

8 Q. "I understood that the brother-in-law of the now
9 deceased was known to Mr McEwan in his capacity as a lay
10 adviser within the legacy Fife force and that Mr McEwan
11 was intending to meet with him. At this time the
12 religious and cultural background of the deceased was
13 still unclear but I provided Mr McEwan with some
14 cultural awareness on the basis that it was believed
15 that the wider family were practising Muslims.

16 I provided some generic advice regarding entering
17 a Muslim household and advised that there may be
18 concerns about the need for a post-mortem and how
19 quickly the body of the deceased may be released back to
20 the family.

21 "I also suggested that there was a need to engage
22 the services of an independent lay adviser given the

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1 previous role of the deceased's brother-in-law."

2 When you went into this meeting with Gill Boulton,
3 had you been made aware that Sheku Bayoh's
4 brother-in-law was a lay adviser to Police Scotland?

5 A. I'm not sure if I knew that or not.

6 Q. Do you recall it being discussed in the course of the
7 meeting?

8 A. No.

9 Q. The last line of that paragraph reads:

10 "I also suggested there was a need to engage the
11 services of an independent lay adviser given the
12 previous role of the deceased's brother-in-law."

13 Do you recall that suggestion being made by
14 Gill Boulton?

15 A. I don't recall that now, no.

16 Q. You don't recall that.

17 Do you recall at the point in time that you went to
18 the family visit the family whether at the back of your
19 mind you were aware that Sheku Bayoh's brother-in-law
20 was a lay adviser?

21 A. I don't recall that.

22 Q. It appears from Gill Boulton's statement that the

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1 suggestion was made that you engage the services of
2 an independent lay adviser and you mentioned earlier in
3 your evidence that there were two lay advisers, one with
4 a Polish background, one who you said was Muslim,
5 I think they were both men?

6 A. They were.

7 Q. And in the fullness of time they were engaged by you and
8 we'll talk about them a little more when we look at the
9 community impact assessment.

10 Do you recall a discussion with Gary Wilson, he was
11 another lay adviser?

12 A. No.

13 Q. This might have been on 4 May but I wonder if I can take
14 you to his statement, because it concerns the
15 instruction or appointment of appropriate lay advisers,
16 given the circumstances of this incident.

17 Gary Wilson's statement is -- I do not have the
18 reference number immediately to hand but you do, thank
19 you very much. Here is Gary Wilson's statement, let's
20 just set the scene if we can have a look at paragraph 3.
21 He explains that he is on the books as a Community Lay
22 Adviser with Police Scotland though he hasn't worked for

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1 them so much recently and I don't think we need to go to
2 paragraph 6 but in paragraph 6 he does explain that he
3 advises principally in relation to issues concerning the
4 LGBT community, and he says that:

5 "The police would call me to deal with these issues,
6 if it was an ethnic minority issue they would try to
7 obtain someone from an ethnic minority background,
8 although it didn't always work like that and you could
9 deal with any equality issue."

10 So he explains a little bit about the role of the
11 lay adviser and his particular protected characteristic
12 or the characteristic in respect of which he could
13 advise.

14 If we can look at paragraph 19 of this statement,
15 please -- now, before we turn to paragraph 19, if
16 I might read a short, what he says in previous
17 paragraphs, he explains that he had a call from
18 Gill Boulton on 3 May. In fact, let's look very briefly
19 at paragraph 16:

20 We'll go through this quite quickly:

21 "In relation to the appointment of a lay adviser,
22 the preferred way would be to find someone that is of

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1 that particular protected characteristic or understands
2 that protected characteristic. I am asked if my role
3 was to identify someone more akin to that role. The
4 answer is no. It was not normal or not out of the
5 ordinary, that the police would sometimes phone up
6 because they couldn't get anybody and they would say,
7 'We've got a case here around disability', for example.
8 I would say to them, ideally you would want a lay
9 adviser that is more of an expert on that particular
10 characteristic than I am, especially if it was a very
11 serious case. If it wasn't a serious case they would
12 sometimes say 'We have tried and we can't get anybody,
13 would you mind just letting us talk you through the
14 case?' So, I think, I said to CI Boulton~..."

15 This is in the context of a conversation they
16 apparently had on 3 May:

17 "..., although I could be wrong, I think you should
18 in a case that seems high level and sensitive, get
19 somebody from that particular protected characteristic,
20 because I knew from what they said it was going to be
21 serious, there was going to be repercussions to that.
22 That's my memory, I could be wrong but my memory is that

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1 I said to them 'Really I don't think I'm the ideal
2 person for this role because that's not my expertise and
3 if there are sensitivities around I think you should be
4 looking for somebody else'. I think that they went back
5 and presumably got somebody from an ethnic minority
6 background. This is my assumption, I don't know that."

7 That's the background to a conversation that he
8 thinks he had with you the following day. So let's turn
9 to paragraph 19 now:

10 "In relation to receiving the call the next day from
11 CI Shepherd I'm asked if I recall what this conversation
12 entails. In my memory he, could be she, but in my
13 memory he, explained what had happened. I knew the lay
14 adviser who was a relative to the victim and I knew her.
15 Not well, I knew her from meetings. He said,
16 unfortunately, this is the scenario, so we're having to
17 be really cautious. Obviously, we can't involve the
18 relative who was the lay adviser. He said
19 'Unfortunately it has led to a death. The person -
20 I don't know if he named him at the time - the person
21 concerned unfortunately died because he resisted arrest.
22 There was a knife involved, and suspected drugs'. I'm

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1 presuming they didn't know for sure that there were
2 drugs. He then said that 'Unfortunately the person had
3 resisted arrest and had died. That there will obviously
4 be a big fallout from this'. I think he said they're
5 declaring it a 'major incident' or 'critical incident'
6 or whatever the police use for something like that.
7 That was the gist of it. I said to him, as you know, we
8 do work on cross-equality strands or protected
9 characteristic strands, but I think you really need to
10 get more expertise, a lay adviser that has more
11 expertise. This is limited to what I knew: somebody had
12 resisted arrest and had unfortunately died. I didn't
13 know how, why or where. I didn't know about the knife
14 not being there at the time, which I've read in the
15 press. They didn't tell me. This is my recollection of
16 that conversation."

17 If we just look briefly at paragraph 20:
18 "I am asked if I can recollect if I was called by a
19 man or a woman. Sometimes the sergeant from St Leonards
20 Police Station would phone and make the arrangements, so
21 it could well have been that I've conflated him phoning
22 to make the arrangement for me to speak to her - that

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1 could clarify any confusion on my part."

2 So Gary Wilson, one of the lay advisers, has
3 a recollection of speaking with you on 4 May. Now,
4 again, does that jog your memory at all?

5 A. No.

6 Q. It doesn't?

7 A. I've never -- I don't know who Gary Wilson is. And I've
8 no recollection of speaking to anybody that morning
9 about the lay advisers. So probably slightly concerned
10 that that's not me that's being referred to there.

11 Q. Okay. All right, so you don't recall the conversation
12 and you're concerned that in fact it might not have been
13 you?

14 A. I've no recollection of that or, I don't -- I'd never
15 heard of Gary Wilson up until you just mentioned his
16 name.

17 Q. Given your remit as bronze commander leading on
18 community impact, given the actions points that we have
19 seen set out for you in the Gold Group meetings, can you
20 help us to understand who else it could have been that
21 would have been making this call?

22 A. I -- I don't know. I -- I don't remember meeting or

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1 speaking to the lay advisers before they arrived on that
2 first meeting that we documented. I'd had no contact
3 with them. So that's probably why I'm, you know, I'm
4 reasonably confident that that wasn't me.

5 Q. All right. Shall we look at in your notebook --

6 A. Yeah.

7 Q. -- just to see if there's anything in that that might
8 help us one way or the other. Now, the pages have got
9 individual numbers. Let me see if I can find the
10 correct page for ... I don't think we in fact have
11 a page that takes us as far as 4 May. Or at any rate
12 I don't.

13 So let's leave that for now. I'm conscious that we
14 don't appear to have the hard copy of your gold book.
15 Sorry, your daybook.

16 A. Okay.

17 Q. And I want to look that out for you over the morning
18 break.

19 LORD BRACADEL: This might be a point, convenient point to
20 have the morning break slightly early.

21 MS THOMSON: It would, sir, if that doesn't cause any
22 inconvenience.

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1 LORD BRACADELE: I think so. Very well, a 20-minute break.

2 (11.24 am)

3 (A short break)

4 (11.53 am)

5 LORD BRACADEALE: Ms Thomson.

6 MS THOMSON: Before the break we were talking about

7 a meeting or a conversation that you may or may not have
8 had on 4 May with a Gary Wilson, and I had wondered
9 whether entries in your notebook, daybook, might be of
0 some assistance one way or the other, and I made
11 enquiries over the break, it appears that we don't have
12 notebook entries that would be on 3 May, however we do
13 have your daybook on 4 May so shall we have a look at
14 that, it's PS09165.

15 A. Sorry, could you repeat the number?

16 Q. Sorry. 09165. It will also come up on the screen, but
17 the hard copy is 09165. I think the best thing would be
18 if I invite you just to cast your eye over this, because
19 there's quite a lot of content and I don't think it will
20 all necessarily be relevant. If we could perhaps scroll
21 through this slowly, you can see that there are details,
22 I think, of resources on duty on that day, mention of

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1 house-to-house, there's a reference there to community
2 officers, but that would be police officers rather than
3 lay advisers?

4 A. Yes, yeah.

5 Q. And a morning meeting. Community impact review, there's
6 a reference to it being there in draft format. Elected
7 members, the advisory group, reference to the local
8 mosque, reassurance patrols, family updates, PIM. Then
9 there is a Gold Group meeting, which we've heard was at
10 12.30 hours on 4 May, notes in relation to that.

11 Is there anything here at all -- this takes us to
12 the end of the document, 4 May, that assists us whether
13 you had a conversation with Gary Wilson on 4 May?

14 A. I don't think it does.

15 Q. Is that the sort of thing that you would have recorded
16 in your daybook?

17 A. I think my notes are quite detailed throughout, so
18 I would like to think I would have recorded that.

19 Q. It's certainly clear that when he gave a statement to
20 a member of the Inquiry team, Gary Wilson thought that
21 DI Shepherd was a man, so there's certainly some degree
22 of confusion there.

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1 A. Okay.

2 Q. And if I understand your position correctly, you have no
3 recollection of that conversation and you query whether
4 the conversation was with you?

5 A. Yes.

6 Q. It could perhaps have been with another person?

7 A. Yes.

8 Q. On that basis I'm not going to ask you anything else
9 about that conversation.

10 A. Okay.

11 Q. While we are looking at the daybook, I wonder if I can
12 take you to your daybook entry in relation to 3 May, and
13 there's just a small point that it might be helpful to
14 clarify.

15 If we scroll down a little bit, I wonder whether
16 these entries, which are very specific timings, can you
17 help us understand where these timings came from?

18 A. I've been asked that when my public Inquiry statement
19 was noted, and I think I made the comment because the
20 timings are there that my, my assumption would be
21 they're from the STORM call card, but I couldn't be
22 definitive in that, and I couldn't explain how else

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1 I would have come by that information.

2 Q. We see an entry at 7.22:

3 "Emergency button pressed - sounds of disturbance.

4 Officer injured."

5 And beneath that:

6 "Update Sammi~..."

7 With what looks like a capital S:

8 ".... - man on ground~..."

9 What does that entry relate to?

10 A. Sammi will be Sammi Davidson, Samantha Davidson. What
11 that relates to is the incident, clearly, because it's
12 within the text of what I think is from the call card.

13 Q. Okay. Has there perhaps been an update over the
14 Airwaves or in such a way that it's perhaps become
15 captured in the call card from Sammi Davidson at about
16 7.22 to the effect that the man was on ground,
17 restrained and unconscious?

18 A. I'm not sure without probably seeing the call card back,
19 but ...

20 Q. But it's your evidence that Sammi is just an informal
21 name for --

22 A. She's known, you know, day-to-day as Sammi, but

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1 obviously Samantha is her full name.

2 Q. Samantha Davidson, and her colleagues call her Sammi?

3 A. Yeah.

4 Q. Thank you.

5 I would like to ask you now about the visit that you
6 and Garry McEwan made to the Johnsons' house on 3 May.

7 Can we return to your Inquiry statement, please,
8 paragraph 30:

9 "Visit to the Bayoh family.

10 "My memory of this visit is outlined in my
11 statements ... 18 May and 18 June ...

12 Chief Superintendent Garry McEwan took the lead in the
13 meeting. He was doing the majority of the speaking and
14 I was there to support him and understand the family's
15 concerns. My role as the local area commander was to
16 monitor the impact of the incident on the family and
17 community more widely. I recorded details of the
18 discussion with the Bayoh family in my police notebook.

19 I recorded these notes when I returned to Kirkcaldy
20 Police Office after the visit. I did not take these
21 notes during the meeting as I did not think it was
22 appropriate to be jotting down comments when we were in

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1 discussion with the family and they were posing numerous
2 questions to us both about events that morning. The
3 notes I took were very much my recollection of the
4 questions that were posed to us and the responses we
5 provided. I recorded these as soon as I got back to the
6 office."

7 Continuing on to paragraph 31 where your notebook
8 entries have been copied in to this statement:

9 " ... 'Attended [redacted] at about 1830 accompanied
10 by [Chief Superintendent]. Numerous family members
11 present. Some introduced Ade (brother-in-law), sister
12 Kadi, partner Collette, her mother. [Chief
13 Superintendent] took lead and explained that purpose of
14 visit was to provide them of our understanding of events
15 from a police perspective. Emphasised that this was not
16 a factual account but what had been provided to us to
17 date. Explained that this was fluid and many people
18 were still to be seen. [Chief Superintendent] explained
19 to all present that at about 0700 this morning a number
20 of calls were received by the police from members of the
21 public about a black African man in possession of a
22 knife on Hendry Road at its junction with Hayfield Road.

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1 Officers had just commenced duty and left from the
2 police station. Attended the scene and during his
3 apprehension, CS spray was discharged and batons
4 withdrawn. During this officers became aware that Shek
5 had lost consciousness. They administered CPR and
6 called for an ambulance. Shek was PLE'd at 0904
7 [Chief Superintendent] explained the role of the PIRC to
8 undertake the independent enquiry and were in attendance
9 at Kirkcaldy Police Station and would make contact with
10 the family to inform them of their role.

11 "Number of questions were posed by the family: (1),
12 Why this was the first of them being told that Shek's
13 death involved contact with the police? (2) Why did the
14 police not disarm him? (3) The family have been told
15 that there were 15 officers in attendance. Why did it
16 take 15 officers? (4) Why have the police taken Arran
17 Crescent as a scene? They have fears officers will
18 'plant' the knife. (1) C/Supt could not comment on what
19 the family have been told to date. (2) No response
20 given. (3) No confirmation of numbers given. (4)
21 Again, unable to confirm but explained that he would
22 contact PIRC to assist in retrieving baby items ie baby

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1 milk, nappies for child of deceased. Overall, family
2 members extremely distraught, angry and frustrated~..."

3 LORD BRACADEL: I'm really sorry to interrupt, Ms Thomson,
4 but there's a message from the stenographer that she's
5 not managing to keep up with you, and she says please
6 slow down. So do you mind doing that.

7 MS THOMSON: I'm so sorry, of course.

8 "(4) Again, unable to confirm but explained that he
9 would contact PIRC to assist in retrieving baby items ie
10 baby milk, nappies for child of deceased. Overall
11 family members extremely distraught, angry and
12 frustrated by lack of information. Ade requested that
13 [Chief Superintendent] contact him tomorrow and
14 requested that we do not release any information to
15 media as Shek's mother had not been contacted and other
16 family members were trying to contact her in Croydon.
17 1920 approx - [Chief Superintendent] and I left and
18 returned to Kirkcaldy Police Station."

19 I'd like to ask you some questions around your
20 recollection of that meeting. If we scroll up a little
21 bit again, please, to look at what you said in your
22 notebook, if we look to the part that is perhaps five

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1 lines from the bottom:

2 "Attended the scene and during his apprehension
3 CS spray was discharged and batons withdrawn."

4 Do you see that?

5 A. Yeah.

6 Q. Do you recall what was said about batons being
7 withdrawn?

8 A. No. Other than that, no.

9 Q. What do you mean by "batons withdrawn"?

10 A. Removed from -- they sit in a harness, a holder, so
11 removed withdrawn at that point.

12 Q. We've heard others describe that action as drawing their
13 baton rather than withdrawing their baton; is it much of
14 a muchness?

15 A. Yeah. It is, yeah.

16 Q. Did you know at that point in time that Mr Bayoh had
17 been struck with batons?

18 A. Not sure if I did.

19 Q. Was that information shared with the family?

20 A. It's not documented there, no.

21 Q. That note documents batons being withdrawn, but there's
22 no reference to baton strike.

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1 A. No, not in there, no.

2 Q. There's mention of an apprehension:

3 "... CS spray was discharged and batons withdrawn.

4 During this officers became aware that Shek had lost
5 consciousness."

6 Were you aware that Sheku lost consciousness after
7 having been taken to the ground and restrained?

8 A. I'm not sure about the actual sequence of events.

9 Q. Were you aware that there had been a restraint?

10 A. When I went to see the family?

11 Q. Yes.

12 A. Yes.

13 Q. Was that information shared with them?

14 A. That there was a restraint?

15 Q. Reference to:

16 "During his apprehension, CS spray was discharged
17 and batons withdrawn. During this officers became aware
18 that Shek had lost consciousness~..."

19 A. Sorry, what was the question?

20 Q. Whether the family -- whether you were aware that there
21 had been a restraint and if so whether the family were
22 told at the same time?

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1 A. I'm not sure the word "restraint" is used.
2 Q. "Apprehension" perhaps is more general?
3 A. Yes, I suppose in answer to your question I'm still not
4 sure if the actual terminology "restraint" was used --
5 Q. (Inaudible - overspeaking).
6 A. -- I've certainly not recorded that.
7 Q. All right.

8 If we can scroll down to the second part of that
9 paragraph, where you record the questions that were
10 asked by the family, and the responses given by
11 Chief Superintendent, so the first question asked by the
12 family was:

13 "(1) Why was this the first of them being told that
14 Shek's death involved contact with police?"

15 And the Chief Superintendent could not comment on
16 what the family had been told to date. Why was the
17 Chief Superintendent unable to comment on what the
18 family had been told to date?

19 A. I wouldn't want to answer for him, but my -- the fact
20 that we didn't know what had been told to date was
21 because we didn't know what the detectives that had
22 visited earlier in the day had specifically told them.

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1 Q. But you'd had sight of or were aware of the content of
2 the death message that had been passed by DC Mitchell
3 and DC Parker?

4 A. I'm not -- I -- the content, no, but the -- I was aware
5 there had been a pre-planned -- sorry, pre-prepared
6 statement but I'm not entirely sure I ever had the
7 opportunity to read it.

8 Q. Well, if we look at paragraph 26 of your statement,
9 which I think we've looked at already, that paragraph
10 begins with a quote from your police statement in which
11 there's a reference to constables -- Detective
12 Constables Mitchell and Parker having been supplied
13 a pre-prepared brief:

14 "I am asked was I aware of what the content of that
15 brief was that was provided to the family, whether in
16 advance or in the aftermath. From my recollection,
17 I wasn't aware beforehand. I think the first I was
18 aware was when they came back and explained that they'd
19 been to the family's home address and they'd faced
20 a number of questions that they were unable to answer.
21 It was at that point I became aware that there had been
22 a pre-planned brief. I am asked if I saw the wording of

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1 the brief that had been provided to the officers to give
2 to the family either because it was written down or
3 perhaps, I'd been told what the brief said. Possibly.
4 I seem to remember being aware it was quite a short
5 brief, six or seven lines from recollection, I'm
6 assuming from that that I must have seen it written
7 down. However, whether I actually had an opportunity to
8 read it or had simply been aware of it I'm not sure.
9 I'm asked whether the officers told me who provided the
10 brief. They possibly did. I don't recall now."

11 So the evidence that you gave to the Inquiry team in
12 your statement suggests that you may have seen it,
13 you're assuming that you must have seen it written down
14 because you were aware that it was quite short, and
15 earlier today I read to you a passage from DC Mitchell's
16 evidence, because he told us what the wording of the
17 brief was, he'd written it in his notebook, and asked
18 whether that fitted with your recollection. And I'll be
19 corrected if I'm wrong, I don't have the transcript in
20 front of me, but I think that did fit with your
21 recollection of the brief.

22 I'm just wondering why it was that Garry McEwan or

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1 indeed neither you nor Garry McEwan were in a position
2 to advise the family ... (audio cuts out)~... Advise
3 the family of what had been said before because you
4 didn't have that knowledge, but you did have some
5 knowledge of the pre-prepared brief that had been read
6 over previously?

7 A. Yes, so I definitely had knowledge that there was
8 a pre-prepared statement that had been provided. What
9 I'm not clear is if I was fully, you know, in a position
10 to read what was -- what had been provided, and then
11 anything in addition that had been said, I wasn't in
12 a position to say categorically what had been told to
13 the family by officers that had spoken to them before we
14 got there.

15 Q. Certainly Sergeant Dursley and Detective Constables
16 Mitchell and Parker had all reported to you that their
17 meeting had been a difficult one, and it was against
18 that background that you and the Chief Superintendent
19 decided to go and meet with the family. So what steps
20 did you take to inform yourself as to what had gone
21 before in terms of the contact that DC Mitchell and
22 DC Parker had had with the family, information that had

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1 been shared by them, concerns that had been raised by
2 the family? What steps did you take to inform yourself
3 of these things in preparation for the meeting that you
4 were going to have with the family?

5 A. Yeah, I mean, my recollection of those conversations,
6 and you referenced the difficult conversation, difficult
7 in the sense that the officers couldn't answer the
8 questions that were being posed by the family, that was
9 what came through clearly when they came back, that they
10 had the pre-prepared statement that they were going to
11 describe in outline, but over and above that they
12 weren't able to answer the questions.

13 So, you know, as far as I was concerned that was --
14 that was what I needed to know, that there was a number
15 of questions that they were asking, quite rightly, about
16 what had happened but they were unable to answer them.

17 Q. And what steps did you take to find out what questions
18 had been asked that the officers were not able to
19 answer?

20 A. I'm not sure about steps, but it was -- it was quite
21 clear they were looking for information that had led to
22 (a) the police, you know, coming upon Mr Bayoh that

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1 morning, and then what had happened subsequently.

2 I didn't know anything other than what I had been privy
3 to through the gold updates, and even then they were
4 from third party references, because that's how we were
5 informed at the gold as to the information, you know,
6 and that is documented in the factual update, I think
7 it's called, in one of the meeting minutes. So I knew
8 as much as that. Whether they knew any more than me,
9 I'm not sure.

10 Q. I wonder whether it would have helped you and
11 Chief Superintendent McEwan in carrying out your role to
12 have had a little more information from DC Mitchell and
13 DC Parker as to what had gone before?

14 A. I felt that it was quite clear it was -- the information
15 that was being sought from us was very specific about
16 the incident itself and the difficulty they had, being
17 unable to answer them is because they didn't know --
18 either they didn't know the information, which was my
19 understanding~...

20 That meeting when they came back and the timescales
21 between us going back out weren't -- it wasn't
22 a significant timescale, so that initial meeting was --

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1 I can't even recall the wording or how they described
2 the meeting with the family other than they were faced
3 with numerous questions about what had happened, and
4 they were unable to answer them. So I'm not sure how
5 much more I would have got from them to probe that much
6 further.

7 Q. You said in your evidence, and I think it's in either
8 your statement or your notebook, that the concerns were
9 around lack of information and a lack of transparency.
10 And when I asked you earlier whether you were aware that
11 this was the second time that DC Mitchell and DC Parker
12 had gone to the house, you were unaware --

13 A. That's true.

14 Q. -- and when I asked whether you were aware that this was
15 the second death message, you were unaware. We heard
16 evidence from DC Mitchell and DC Parker that when they
17 first went to the house they simply said that
18 Sheku Bayoh was dead or possibly had been found dead, no
19 further circumstances were given, and in particular no
20 mention was made of his death following on from contact
21 with Police

22 The first time the family received that information

TRANSCRIPT OF THE INQUIRY

1 was when they were read the pre-prepared brief by
2 DC Mitchell at the time of the second visit to the
3 family. Would it have helped you to have been aware of
4 that background when you went to the family home that
5 evening?

6 A. Yes.

7 Q. How would it have helped?

8 A. To understand concerns and the origin of those concerns,
9 had they been raised with me, which I would have
10 expected they would be.

11 Q. What insight would the information that I have just
12 shared with you have given you into the origin of the
13 family's concerns?

14 A. Quite obvious concerns about looking for answers to
15 what's happened, to understand what had taken place.

16 So ...

17 Q. There was an issue around transparency, you've told us.
18 Does the information that I've given you now help you to
19 understand the family's concern around transparency?

20 A. It does, but I -- I expected that, I had that sense from
21 the questioning and the fact that the detectives came
22 back and said they simply couldn't answer questions

TRANSCRIPT OF THE INQUIRY

1 about what had taken place, so for me that transparency
2 was evident.

3 Q. You weren't aware at the time that you went to meet with
4 the family that they had been given a first death
5 message which made no reference to police contact --

6 A. I don't --

7 Q. -- and a second death message which did?

8 A. I don't remember that, no.

9 Q. But hearing that now, do you understand why that would
10 have been a big concern from the family's perspective
11 around transparency?

12 A. Yes.

13 Q. Might it have assisted you to have understood that
14 background at the time that you went to meet with the
15 family?

16 A. Yes.

17 Q. Returning to the questions that were asked of
18 Garry McEwan, now I appreciate you can't speak for him,
19 as you've said already, but you were there together and
20 you've described your role as being to support him. The
21 questions were in paragraph 31, bottom part of that
22 paragraph. The second question was:

TRANSCRIPT OF THE INQUIRY

1 "(2) Why did the police not disarm him?

2 "No response given."

3 Why could a response not be given to that question?

4 A. Couldn't answer it.

5 Q. Why not?

6 A. Didn't have that information.

7 Q. The third question related to the number of officers in
8 attendance and the Chief Super was able to say that he
9 believed at least six officers had been involved.

10 And the final question was why Arran Crescent had
11 been taken as a scene, and you've recorded in your
12 notebook, which has been copied in to the Inquiry
13 statement:

14 "(4) Again, unable to confirm."

15 Why were neither you nor the Chief Superintendent
16 able to tell the family why Collette Bell's house had
17 been seized as a scene?

18 A. At that point, we, you know, we weren't involved with
19 the investigation side of things in terms of scene,
20 you know, and what the investigation was doing
21 hour-by-hour. So that wasn't information that we could
22 have provided.

TRANSCRIPT OF THE INQUIRY

1 Q. The Chief Superintendent, am I right in recalling that
2 he was the silver command within the~... is that right?

3 A. Yes.

4 Q. Within the structure, and had been at the Gold Groups
5 and had a high level involvement in the investigation,
6 but he wasn't able to advise the family why that
7 property had been taken?

8 A. Not with any certainty.

9 Q. Can we look at your police statement, please, PS00643,
10 third page, second last paragraph, third page, please.

11 (Pause)

12 We have a different version of the -- yes, stay
13 there please, I think I have a different format on my
14 statement. So we see here -- we know that you recorded
15 the questions and the responses given in your police
16 notebook and we've looked at the entries that have been
17 copied in to your Inquiry statement. This is from your
18 operational statement. So it's the same questions. And
19 4 is:

20 "Why have the police taken Arran Crescent as
21 a scene? Certain family members expressed concern that
22 officers would 'plant the knife'.

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1 "A. [Chief Superintendent] and I both explained
2 that the examination of all scenes would be directed by
3 the PIRC and it was important that all evidence was
4 gathered. It was apparent at that time that there were
5 signs of a minor disturbance within, hence the
6 requirement to examine it.

7 [Chief Superintendent] McEwan informed them that he
8 would contact PIRC staff to assist in retrieving any
9 items from the home address. They specifically stated
10 that they required items for the infant child."

11 So according to your operational statement it
12 appears that both the Chief Superintendent and you
13 provided an explanation to the family firstly that the
14 scenes were under the direction of the PIRC; secondly,
15 that all important evidence had to be gathered; thirdly,
16 that there were signs of a minor disturbance which
17 necessitated the examination. So you appear to have
18 provided quite a full explanation to the family as to
19 why Arran Crescent had been taken as a scene. How does
20 that sit with your evidence that this wasn't a question
21 that you were able to answer?

22 A. Is that my original statement?

TRANSCRIPT OF THE INQUIRY

1 Q. Yes.

2 A. So it's, you know, in recalling that -- sorry, the
3 question that I think the Public Inquiry posed was,
4 you know, the reasoning for -- or what questions could
5 or couldn't be answered. So my recollection, having
6 read back my statement, you know, certainly the original
7 operational statement, I've clearly recorded that. But
8 I suppose being asked now, I don't recall the
9 conversation.

10 Q. Ok. I don't think it was a question that came from the
11 Inquiry team, I think it was just a copy and paste from
12 your notepad?

13 A. Right, okay.

14 Q. We can go back to your Inquiry statement very briefly,
15 it's paragraph 31. Look further down that paragraph,
16 please. Again, looking at the questions, question 4:
17 "Why have the police taken Arran Crescent as
18 a scene?"

19 Answer 4:

20 "Again, unable to confirm but explained he would
21 contact PIRC to assist in retrieving baby items~..."

22 I'm just wondering what the explanation was for why

TRANSCRIPT OF THE INQUIRY

1 you've noted in your notebook "unable to confirm", and
2 that appears to be your evidence today, but your
3 operational statement suggests that quite a detailed
4 explanation, in fact, was provided to the family?

5 A. I suppose what I'm saying is when I've recorded it in my
6 operational statement, which would have been done within
7 a month of the incident, I have recorded that
8 information. I think what I'm being -- what I was being
9 asked, probably what I'm trying to convey is when I was
10 asked part of the Public Inquiry statement, that part of
11 my notebook that's basically been put back to me about
12 that very point about not having any further
13 information, so being asked now do I remember that
14 comment, I don't, is probably what I'm trying to say.

15 Q. Alright. Before we move on from this, just going back
16 briefly to point 3, which -- no, sorry, point 2:

17 "Why did the police not disarm him?

18 "No response given."

19 When you went to visit the family on the evening of
20 3 May, were you aware by that point in time that
21 Sheku Bayoh had not in fact been in possession of
22 a knife at the point that he came in contact with

TRANSCRIPT OF THE INQUIRY

1 police?

2 A. Sorry, can you ask that again?

3 Q. Of course. On the evening of 3 May, did you know that
4 Sheku Bayoh had not in fact been in possession of
5 a knife when he came in contact with the police? The
6 knife was recovered nearby, but he was not in possession
7 of a knife when he came in contact with the police; did
8 you know that?

9 A. I'm not sure I knew that then.

10 Q. If you had known that at the time, is that the sort of
11 information that might usefully have been provided to
12 the family in response to their question: why did the
13 police not disarm him? You can't disarm someone who
14 isn't in possession of a knife.

15 A. Again, probably -- I am conscious of the fact that the
16 information I knew didn't come from the officers that
17 were involved, so, you know, the information that was
18 provided to me had come from third parties that had
19 relayed that to inform the gold. So those, I suppose,
20 you know, I'm conscious of relaying information that
21 I don't know the origin and the provenance of. So it's
22 quite a specific question about the knife. I don't know

TRANSCRIPT OF THE INQUIRY

1 at that point, you know, as -- that I would be relaying
2 information that I don't know the accuracy of.

3 Q. Do you recall there being any mention, either by
4 Chief Superintendent McEwan or by yourself, of
5 a machete?

6 A. I've been asked that question, and I think I was asked
7 that question back in 2015.

8 Q. Right.

9 A. And I don't recall that.

10 Q. You don't. Do you recall there being any mention of
11 a forceful arrest?

12 A. No.

13 Q. Do you recall any mention of Sheku Bayoh punching
14 a policewoman, her falling to the ground and him
15 stamping on her?

16 A. Now, no.

17 Q. And do you recall this: we heard evidence from
18 Collette Bell that she became very upset at the time of
19 your visit. Do you recall Collette Bell being present
20 at the time of your visit?

21 A. Yes.

22 Q. Yes, and saying:

TRANSCRIPT OF THE INQUIRY

1 "So you battered him to death?"

2 And she says:

3 "This chief of police~..."

4 Presumably referring to Chief Superintendent McEwan:

5 "... I'll always remember, he just shrugged his

6 shoulders."

7 Do you recall Collette saying those words?

8 A. No.

9 Q. Do you recall at any time the Chief Superintendent

10 shrugging his shoulders?

11 A. No.

12 Q. You said that your role at this meeting was to support

13 your colleague and also to monitor impact -- the impact

14 of this incident on the family. Did attending the

15 meeting help you to understand the impact of their loss?

16 A. Yes, it did.

17 Q. And how did that information help you to fulfil your

18 role going forwards?

19 A. It was evident to me how concerned and upset they were.

20 So in performing my role round about community tensions,

21 that's absolutely crucial to be aware of that.

22 Q. From your perspective, was it helpful for you to have

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1 met with the family and to have heard their anger, their
2 frustrations, their concerns?

3 A. Absolutely, it was -- I was the local area commander for
4 Kirkcaldy, so it was, I felt, absolutely the right thing
5 to do to introduce myself and for them to understand the
6 role I was performing. So I absolutely felt that was
7 the right thing to do.

8 Q. During this meeting were there any discussions about the
9 upcoming post-mortem?

10 A. I don't recall them, and I haven't taken notes of that,
11 is probably what I would say.

12 Q. So you don't recall any discussions around post-mortem?

13 A. I don't now.

14 Q. Do you recall there being any discussion about
15 identification of the body?

16 A. Not now, I don't.

17 Q. Did you have any further involvement with Mr Bayoh's
18 family after 3 May?

19 A. No, I don't think I did.

20 Q. I want to move on to ask you about something else, the
21 welfare of the officers. If we can look at
22 paragraph 33, it's quite a long paragraph, but you

TRANSCRIPT OF THE INQUIRY

1 explain in the first few lines that your role for the
2 welfare of the officers included ensuring they had
3 access to support services, how you were going to
4 facilitate and arrange their return to the workplace and
5 back to operational duties. And if we move on to the
6 next page, you explain there were logistical challenges
7 and their equipment and clothing, which of course had
8 been seized, they were to deploy operationally. You
9 devised individual welfare plans for each officer and
10 a few lines down you talk about referrals and
11 signposting to welfare and counselling services to
12 ensure they had the right support and advice.

13 And towards the bottom of that paragraph -- sorry,
14 we're still on paragraph 33 but just at the bottom of
15 it:

16 "The welfare role I had extended further than the
17 officers directly involved in the incident, all officers
18 and staff at Kirkcaldy had been affected in some way by
19 the events and the majority of our staff live in the
20 community too, their safety, welfare and wellbeing was
21 at the forefront of my mind."

22 And that fits very much with what you said in the

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1 earlier part of your evidence in terms of the welfare
2 role you had, you effectively came in behind the PIM
3 when the post-incident procedures concluded and had
4 responsibility for the officers' welfare.

5 I just have a couple of questions in relation to
6 this. Did you at any time discuss what had happened at
7 Hayfield Road on 3 May with any of the officers who were
8 Present?

9 A. Present?

10 Q. At Hayfield Road.

11 A. Sorry, can you ask that again so I'm sure what you
12 are --

13 Q. Sorry, I perhaps phrased it poorly. Did you at any time
14 speak to any of the officers who had been involved in
15 the restraint of Mr Sheku Bayoh about what had happened
16 that day?

17 A. At any point in --

18 Q. At any point in time?

19 A. Yeah. Not about the incident itself, but I had spoken
20 to them.

21 Q. I beg your pardon, did you have discussions about the
22 incident itself with any of the officers?

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1 A. No.

2 Q. No. Did you have any discussions with any of the
3 officers who were at Hayfield Road about preparing
4 statements?

5 A. No.

6 Q. Or about filling out forms?

7 A. No.

8 Q. How long were you responsible for the officers' welfare?
9 It obviously went way beyond 3 May.

10 A. Personally probably for the next month or so, because at
11 that -- and I can say that with confidence because
12 I moved roles.

13 Q. Can you describe your role beyond 3 May; is there
14 anything that you would add to the paragraph that we've
15 looked at on the screen?

16 A. No, I think it's a fair summary.

17 Q. I want to move on from that and I want to ask you some
18 questions now in relation to the community impact
19 assessment, meetings with elected members, meetings with
20 lay advisers.

21 Let's begin with paragraph 37 of your Inquiry
22 statement:

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1 "I'm asked about the relationship between
2 Police Scotland and minority ethnic communities in Fife
3 prior to this incident on 3 May. I would describe the
4 relationships as very good. I base that opinion on the
5 various contacts and engagements I've had with our
6 ethnic minority communities over the years and the work
7 that Fife Constabulary and latterly Police Scotland
8 carried out as part of our community policing model."

9 How long had you been working in the Fife area as at
10 2015?

11 A. About 20 years.

12 Q. What relationship did you have with the minority ethnic
13 communities in Fife?

14 A. The community policing model that Fife adopted was what
15 I was, I suppose, brought up in policing to understand.
16 Fife Constabulary, as it was, you know, certainly
17 through the majority of my service up to that point,
18 introduced a new community engagement model, I think it
19 was maybe back in 2007/2008, and it was a complete
20 overhaul of how -- not overhaul, but they moved
21 a significant number of officers into community policing
22 from response to make policing more local, more

TRANSCRIPT OF THE INQUIRY

1 understanding of community needs. So it was quite novel
2 in terms of an approach in policing senses in Scotland.
3 So that then, what that did is we had a designated
4 officer for every single beat area in Fife who was
5 identifiable for everybody in communities to have that
6 kind of community engagement model.

7 So it was -- you know, it was something that was
8 very well documented and publicised at the time, and it,
9 I think it extended right up until -- in fact, it went
10 to an enhanced community engagement model and then to
11 coming into the being of Police Scotland. So, you know,
12 I base, I suppose, that opinion on my 20 years of having
13 community policing at the heart of really local
14 multi-member ward beat areas as being really the
15 foundation of what Fife Constabulary was about.

16 So, and as I've come through the ranks there's,
17 you know, different contacts and experience that I've
18 got with ethnic minority communities, both personally
19 and both as a manager. For example, I think round about
20 this time we were doing a lot of work with third party
21 reporting centres for hate crimes, so local officers
22 from Kirkcaldy were in training staff within third party

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1 reporting centres, and we were doing that as part of
2 that community safety co-ordinating group that I spoke
3 about yesterday, where it's not just the police that are
4 looking at, you know, diversity in a local community,
5 it's a whole partnership approach.

6 So that was one area in terms of what I remember
7 ongoing at the time, and, you know, what I vividly
8 remember one of the lay advisers telling us, you know,
9 as part of this enquiry, is that their concern was that
10 a lot of the good work that had been done with ethnic
11 minority communities in Fife could be undone because of
12 some of the lack of information that was going out.

13 So, you know, it probably was basing my -- that's
14 what my assessment of community policing and work with
15 ethnic minorities was based on is my own personal
16 experience and sometimes in those leadership roles where
17 I have got a good knowledge of what we were doing
18 locally.

19 Q. Did you have an understanding as to the makeup of the
20 ethnic minority community in 2015?

21 A. Yeah.

22 Q. Can you describe the make-up of that community?

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1 A. In Fife, sorry, or Kirkcaldy?

2 Q. Fife or Kirkcaldy, whichever you're more comfortable
3 with.

4 A. I mean, Kirkcaldy, we'd had a population of about
5 550-560,000, in terms of communities that would identify
6 as black, it would be small. I would -- less than 1%.
7 Polish communities, again, small, less than 1 or round
8 about 1%. The majority of the make-up of Kirkcaldy
9 would identify as white Scottish, in my recollection of
10 the communities when I was working there, for Kirkcaldy.

11 Fife would have -- there would have been minor
12 variations on that, but that would have been -- the
13 majority of Fife would have reflected that.

14 Q. I want to move on to ask you questions about the
15 community impact assessment. One final thing before we
16 do that. You will recall I took you to Gill Boulton's
17 statement earlier, there's a reference to a diversity
18 manual or a diversity booklet. We now have that and
19 I wonder if we could bring it up on the screen, please,
20 it's PS11300.

21 (Pause)

So we see it's a Police Scotland documentation

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1 diversity booklet, a practical guide published I think
2 by Safer Communities in August 2013. Have you seen this
3 before?

4 A. If I have I don't remember it.

5 Q. Have you seen it since 2015?

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

7 Q. Were you aware of its existence in 2015?

8 A. I don't think so, no.

9 Q. Can we go to page 32, please. We see here that there's
10 a section on Islam, it's quite long so we're not going
11 to go through it in detail, but there's a little bit
12 there about the population of Muslims in the UK,
13 a little bit about the heart of Islam being the belief
14 in one God, and as we move down the page we come to the
15 five pillars of Islam: declaration of faith, prayer five
16 times a day, welfare due to the needy, fasting,
17 pilgrimage. There's a section explaining the meaning of
18 the word jihad, and then a section on communication,
19 let's look at this:

20 "Islam prescribes quite precise rules for conduct
21 between the sexes, requiring that men and women do not
22 mix together in ways that compromise their modesty and

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1 integrity. Communication may be more effective if the
2 officer is of the same gender as the person they are
3 dealing with.

4 "Generally, Muslim men and women do not shake hands
5 with someone from the opposite sex. If it is
6 appropriate in the context of a meeting to greet by
7 shaking hands, then this should be freely offered.
8 However, there may be potential for cultural tensions
9 when dealing with a member of the opposite sex and on
10 these occasions officers should not shake hands unless
11 a hand is offered. Some Muslims, especially when they
12 are about to go for prayers, may also wish to avoid
13 shaking hands due to them requiring to wash their hands
14 again in preparation for Salah."

15 Then if we carry on down the page: places of
16 worship; practical considerations; information about
17 attending the mosque and etiquette when attending the
18 mosque; custody, if you were to take a Muslim person
19 into custody.

20 Then further down:

21 "Attending a Muslim house.

22 "If you arrive unannounced at a family home, you may

TRANSCRIPT OF THE INQUIRY

1 interrupt prayers. If possible, wait a short period, to
2 enable prayers to finish without interruption;

3 "Many Muslim women may not be comfortable in mixed
4 company and will tend to avoid being in a room if men
5 are present. As such, any cross gender communication
6 may cause difficulties or offence."

7 Then there's some guidance in relation to food and
8 significant dates; searches, searches required to be
9 carried out; and sudden death:

10 "Be aware of the potential conflict that could arise
11 from a sudden death and the sensitivities around the
12 requirement for a post-mortem. It may be prudent to
13 involve an elder or the local Imam (spiritual leader) at
14 an early stage to explain the circumstances and
15 necessity for the procedure."

16 If I can just pause there to ask whether the Imam or
17 an elder were involved in assisting you or advising you
18 in relation to your work with Mr Bayoh's family?

19 A. Not me personally, possibly in terms of the senior
20 investigating officer, but I'm not sure.

21 Q. That wasn't something that you're aware of?

22 A. In terms of my involvement?

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1 Q. Well, from the managing the community tensions
2 perspective, is it something that you considered?
3 A. I think it was considered.
4 Q. Mm-hm. By you?
5 A. It came through one of the lay advisory groups.
6 Q. So was it a recommendation from one of the lay advisors?
7 A. Not sure about a recommendation, but it was certainly
8 a conversation which I'm sure is recorded within the
9 meetings of -- (inaudible - overspeaking) --
10 Q. We'll be coming to those very shortly and we might see
11 it. But to the best of your recollection was the Imam
12 or an elder involved at any stage?
13 A. Definitely spoken about, I don't know about involved and
14 as we went through the weeks in the aftermath in terms
15 of prior to funeral, et cetera, there was definitely
16 discussions about that.
17 Q. Let's carry on going through this manual, please, under
18 the heading of, "Sudden deaths", scrolling down
19 a little:
20 "Muslims are always buried as they believe in
21 resurrection of the body after death. Burial should
22 take place as soon as possible~... Delay ... can cause

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1 families more grief.

2 "Interference with the corpse is deeply resented and
3 this includes post-mortem. Muslim families will do
4 their utmost to avoid a post-mortem."

5 And there are then some general considerations and
6 some information on festivals and holy days, if we carry
7 on scrolling down.

8 Thank you.

9 Then very briefly, let's look at page 81, I don't
10 think we need to look at this in detail, but do we
11 see -- sorry, scroll down a little bit further,
12 thank you -- there's a section on the African and
13 African-Caribbean communities, and culture, language
14 tradition and religion are included there.

15 Would you have found it helpful to have had access
16 to this booklet before you went to meet with
17 Sheku Bayoh's family or indeed in the days and weeks
18 that followed during the course of your meetings with
19 the lay advisers and the elected members in the context
20 of your community impact work?

21 A. There's certainly a lot of information in it, so yes, it
22 would have been helpful.

TRANSCRIPT OF THE INQUIRY

1 Q. Let's turn to the community impact assessment. It's
2 PS10193. Now, this is a lengthy document and we're not
3 going to go through every page. I can advise that at
4 the conclusion of your evidence this document,
5 appropriately redacted, will be published on our website
6 so people can look at the fine detail of it. But what
7 I would like to do is get our bearings because it looks
8 to be a pro forma and you can help us understand how it
9 is completed and the sort of information that is
10 recorded in the community impact assessment and then
11 I'll take you to some key entries that we can talk
12 about.

13 So, this appears to be, as I say, a pro forma and on
14 the first page we see that this is version 29, can you
15 help us to understand what that means? I gather that
16 there are previous versions with numbers beneath 29,
17 which perhaps don't go quite so far chronologically as
18 this version?

19 A. Any updates should clearly change the version control,
20 so chronologically the higher you go the more recent the
21 chronology should be.

22 Q. So is this a rolling document, then, that is added to as

TRANSCRIPT OF THE INQUIRY

1 time goes on?

2 A. Yeah, it's a live document, so it's, you know,
3 constantly updated and as it's updated the version
4 control will increase.

5 Q. Let's look at the pro forma, the first few pages, just
6 to make ourselves familiar with the format here:

7 "Community impact assessment.

8 "Death of Sheku Bayoh.

9 ".... Background information.

10 "Version 29."

11 You've got your police reference name date and time
12 of death. Then the nature of the incident, I don't
13 think we need to look at that in any detail for present
14 purposes. And then the location, and the loci that have
15 been identified. Then there's a description of the main
16 communities and groups in the area, and I note there's
17 a reference to a mosque there a short distance from both
18 the locus and the deceased's home address.

19 We can scroll on to the next page, please:

20 "There may be tensions in the community given the
21 circumstances of the death and the deceased's ethnicity
22 and religion."

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1 What were his ethnicity and religion understood to
2 be on 3 May 2015?

3 A. Ethnicity was black and his religion was Muslim is what
4 I had been told.

5 Q. We'll come to some entries in the --

6 A. Okay.

7 Q. -- minutes in the fullness of time which suggest there
8 might have been some uncertainty --

9 A. Okay.

10 Q. -- around that, which is why I was keen to know what
11 your understanding was.

12 Trigger points have been identified. What are
13 trigger points?

14 A. Trigger points are moments where community impact may be
15 affected. So it's almost predictive events that you
16 would want to monitor because they've got the impact to
17 either increase or decrease your community impact,
18 I hope that makes sense.

19 Q. It does, it does, and the trigger points identified are
20 the results of the post-mortem and the funeral, negative
21 comments on social media in relation to the actions of
22 the police, possible hostility towards the police, and

TRANSCRIPT OF THE INQUIRY

1 the reactions of the family.

2 So at what point were these identified as trigger
3 points? We see if we scroll down a little bit this
4 assessment was completed on 4 May 2015, although it
5 appears to have been completed by a Jimmy Adamson,
6 albeit this was tasked to you at the Gold Group meeting?

7 A. Yeah.

8 Q. So who is Jimmy Adamson?

9 A. Jimmy Adamson is the community sergeant for Kirkcaldy.

10 Q. Okay. Did you delegate this responsibility to him?

11 A. Yeah. It's quite common, that's -- the community impact
12 assessment should be done by a supervisor within that
13 local area command who has a good working knowledge of
14 those communities. So it's, you know, a delegated task,
15 however ultimately I'm responsible for it.

16 Q. You were sighted on it and ultimately responsible

17 A. Because it became so fluid, I'll probably discuss with
18 you just how then we managed the updates.

19 Q. Yes, yes. Tell me that now.

20 A. So the document's clearly there as a record of how we
21 transition through those days, the structures that were
22 put in place where the lay advisory group clearly then

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1 feeding into what was a community impact and reassurance
2 group with a wide range of membership.

3 So in this community impact assessment we were
4 scanning and analysing using all of those groups to then
5 inform this, so this almost became the record of all the
6 scanning, analysing, mitigations, actions taken. So
7 it's a capture of all of that. But there was clearly
8 groups that are informing that, and you'll clearly see
9 the minutes of those meetings.

10 Q. Yes, as we go through it we see minutes of meetings with
11 elected members, minutes of meetings with lay advisers
12 and minutes of meetings with the reassurance group --

13 A. Yes, I don't think there's minutes from elected member
14 meetings as such, maybe conversations.

15 Q. Perhaps conversations?

16 A. Okay. Yeah, that would be right.

17 Q. Or, I beg your pardon, updates?

18 A. Yeah.

19 Q. Elected members updates?

20 A. Yeah.

21 Q. So all of that information is captured and held in one
22 place?

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1 A. Yeah.

2 Q. So the objectives, we have seen these before, I think
3 they come from the Gold Group meeting, so we can skim
4 over these and carry on scrolling through the document,
5 please.

(Pause)

7 A little bit of background. Again, this is all
8 familiar to us. We can carry on to page 4, please.
9 It's headed up scanning, and that's a word that you use
10 quite a lot; is this to do with you scanning for
11 information that is relevant to community impact
12 assessment?

13 A. Yeah, it's a process of assimilation, of gathering in as
14 much information as you can, documenting then what
15 you've gathered, and then there should be a logical step
16 through then of okay, that's what you know, what will
17 that mean in terms of your predictive events and then
18 what are you going to do about it basically.

19 Q. We can look -- we're not going to look at every
20 paragraph on every page of this document because it's
21 a very long document, but within this box, if we can
22 scroll down a little bit, please, perfect, you identify

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1 in the second paragraph down:

2 "The community group most likely to be affected are
3 family members and associates of the deceased~...
4 potentially more than 15 people, some are children. The
5 deceased is from Sierra Leone but has lived in this
6 country since he was 14. Mother still resides there,
7 but coincidentally was in the UK at the time of his
8 death. And there's reference to him having a baby:

9 "These people will be affected because of their
10 relationship to the deceased and the traumatic nature of
11 the incident."

12 Beneath that:

13 "It is understood that although members of the
14 deceased family are devout Muslims, the deceased did not
15 practice his faith."

16 Where did that information come from?

17 A. I don't know.

18 Q. You haven't personally put that information into --

19 A. No, as I said, Sergeant Adamson has completed that from
20 that process of assimilation on the 4th, what he would
21 have gathered from the 3rd, so I can't categorically say
22 where he would have got that from.

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1 Q. "However it is likely that the death will impact on the
2 Muslim faith groups in Kirkcaldy because of the
3 deceased's religion and the fact that several relatives
4 are devout Muslim."

5 Further down the page there's a heading, "Equality
6 and diversity - what religious and cultural factors need
7 to be taken into consideration":

8 "The deceased was Muslim and although believed not
9 to be practising his faith this has had to be taken into
10 consideration throughout the community impact
11 assessment. It is vital that as the enquiry develops
12 any information pertaining to the cultural or other
13 diversity needs of the deceased are communicated to
14 CI Shepherd to allow for local needs to be met.

15 Equality lay advisors have been contacted and will form
16 part of the reassurance plan. A separate diversity and
17 engagement plan has been produced in support of this CIA
18 that further identifies E&D considerations. Cultural
19 issues around funeral and post-mortem arrangements,
20 although as yet unclear, may raise cultural
21 sensitivities."

22 I would like to ask a couple of questions about

TRANSCRIPT OF THE INQUIRY

1 that. Although we see Sergeant Adamson's name and the
2 date of 4 May on page 2, is this part of the initial
3 document that he has prepared on that date?

4 A. Those specific comments?

5 Q. Yes.

6 A. Sorry, say that -- could you ask that again?

7 Q. Sorry, I phrased that very clumsily.

8 When we looked at page 2 of this pro forma,
9 assessment completed by Jimmy Adamson on 4 May 2015,
10 there was then some background information on page 3,
11 and we're now looking at page 4. I'm wondering if you
12 can help me with when this particular page was
13 completed?

14 There are no -- do you have a hard copy of the --

15 A. I do. I'm looking through it just now.

16 Q. Because I don't see any later dates before the point
17 that we get on to meetings. Updates.

18 A. It makes sense from the chronology that that was updated
19 on the 4th --

20 Q. Right.

21 A. -- but I wouldn't want to categorically say that. But
22 because it flows like that, then I would say that would

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1 be my assumption.

2 Q. Alright. Well, there's reference in that paragraph to
3 "Equality lay advisers have been contacted", and we
4 touched on this earlier. We've ascertained that you
5 don't recall a conversation with an adviser called
6 Gary Wilson, indeed that conversation may not have been
7 with you on 4 May, and you told us that there were
8 ultimately two lay advisers appointed; would that be the
9 correct turn of phrase? Did they assist you throughout?

10 A. Yeah.

11 Q. Yes, and one was Polish, you said, and one was Muslim.
12 Was he black Muslim?

13 A. No.

14 Q. What was his ethnicity?

15 A. I wouldn't want to self -- you know, to define. I'm not
16 sure.

17 Q. You're not sure, all right. But in any event, there's
18 a reference in this document to the lay advisers having
19 been contacted. Can you inform us as to how they were
20 contacted or by whom? Was that you? Was that somebody
21 else?

22 A. It wasn't me.

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1 Q. But it would appear that by the 4th, on the assumption
2 this form was completed on the 4th, the equality lay
3 advisers had been contacted and would form part of the
4 reassurance plan.

5 What's the reassurance plan? Is this the same as
6 the reassurance patrols, or something different?

7 A. That's -- so, is that the diversity and reassurance?

8 Q. I'm on 2.2, it's the paragraph that's on the screen near
9 the bottom. 2.2, last sentence -- sorry, second last
10 sentence:

11 "Equality lay advisers ..."

12 Sorry, do you see that?

13 "Equality lay advisers have been contacted and will
14 form part of the reassurance plan."

15 A. Yeah, sorry, I was reading on to the next bit, about the
16 diversity engagement plan. Apologies, that's my fault.
17 So, yes, the equality lay advisers will be contacted to
18 form part of this reassurance plan, community impact
19 assessment.

20 Q. So the reassurance plan and community impact assessment
21 are one and the same?

22 A. Yes.

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1 Q. So they're going to be working with you going forward?

2 A. Yeah.

3 Q. Okay, we'll perhaps come back to the equality --
4 sorry -- diversity and engagement plan, so we're not
5 chopping and changing with documents. We'll stay with
6 this one for now.

7 Moving through the document, if we can go to the
8 next page, please, detail around family and friends.

9 Again, if we keep scrolling through this table at
10 the bottom. If we could stop there, please. 2.6:

11 "Are there any other intelligence or community
12 information available to inform your assessment?"

13 And there's a reference to social media picking up
14 on the incident and attracting some negative comments
15 being monitored by the DIO.

16 What's the DIO?

17 A. Divisional intelligence officer.

18 Q. Okay.

19 "Any impact on community tensions will be considered
20 as part of the CIA."

21 And then consultation, are these the people who are
22 to some extent involved in the CIA?

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1 A. Yeah. Or definitely sighted and copied in to it, yeah.

2 Q. Okay, so we see your name there, third from the top, and
3 further down:

4 "Independent advisory group lay advisers have been
5 contacted."

6 And we see a date stamp next to that of 4 May, which
7 fits with the assumption we made earlier that there
8 would have been contact with them on 4 May if this form
9 had been completed on that day?

10 A. Yeah.

11 Q. We can turn to page 6, please. At the top you have --
12 thank you, perfect -- we see the heading in the box
13 "External consultation, elected officials". Elected
14 officials, are those the same as the elected members or
15 the councillors?

16 "DS Shepherd has made contact with local elected
17 reps."

18 That happened at 7 pm on the 3rd. We see from this
19 document that by 4 May there has been contact both with
20 lay advisers -- and you've explained that two were
21 brought in to advise in relation to the incident -- and
22 you've also been in touch with the local councillors?

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1 A. Yeah.

2 Q. Further down we have a risk assessment. What risk are
3 you assessing here?

4 A. So there's a range documented there. Public disorder,
5 damage. So again that -- they're generically to the
6 form. For risk, sorry. So it's -- clearly the boxes
7 there are "medium, public disorder", "medium, officers"
8 and, then the remainder of the boxes are assessed as
9 low.

10 Q. Okay. Can you help us to understand why certain risks
11 have been identified as being medium rather than low?

12 A. I think quite early on into that assessment, then these
13 are predictive, you know, potential risks.

14 So public disorder, given critical incident,
15 previous events involving, you know, deaths in custody
16 would have shown that public disorder may be a risk that
17 we may need to either identify and manage.

18 Property damage, clearly less so, unless we had
19 a specific location that we were looking at.

20 Witnesses, at that point nothing specific.

21 Officers, clearly because of the nature of the
22 incident, would be, you know, an area that's more

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1 likely.

2 And specific group, that's quite a generic term
3 there and doesn't specify as low.

4 And incident replication probably just means we
5 likely to see a recurrence of what we've seen, and the
6 assessment of that was low.

7 Q. Predictive event risks, the only one which has been
8 identified as being medium rather than low is the
9 funeral. Why would that be?

10 A. I think if you look at the rest of them:

11 Arrest. From what we knew, certainly on day one,
12 there wasn't arrests at that point, so low at that
13 point.

14 Searches. At that point, certainly community impact
15 was assessed as low and nothing certainly coming to us
16 to suggest otherwise.

17 And release of suspects, probably not applicable as
18 per the arrest discussion.

19 The funeral because it's one of those moments in
20 time which can create more or increase community
21 tension. So it's a marker to say that until we know
22 otherwise, or of other significant events, then that

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1 would be something that we would be looking to monitor.

2 MS THOMSON: I wonder if this would be a convenient point at
3 which to break.

4 LORD BRACADEL: That is a convenient point. We will stop
5 there for lunch. 2 o'clock.

6 (1.01 pm)

7 (The short adjournment)

8 (2.00 pm)

9 (Proceedings delayed)

10 (2.02 pm)

11 LORD BRACADEL: Yes, Ms Thomson.

12 MS THOMSON: Thank you.

13 Before lunch we were looking at the community impact
14 assessment and I would like to go back to that now,
15 please, we'd got as far as page 6, I wonder if we could
16 perhaps pick up at page 7.

17 (Pause)

18 It's PS10193.

19 (Pause)

20 Thank you. In fact, let's go to the bottom of
21 page 6, first, just to get our bearings. We looked at
22 the risk assessment at the bottom of page 6. And then

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1 at the very, very bottom, 3.4, just a banner that says:

2 "Consider the impact of the event/incident/operation
3 or any proposed action at local, force or national
4 level."

5 The content that I think goes beneath that heading
6 is at the top of the following page. It reads:

7 "There are reassurance patrols as part of the
8 ongoing police activity in the area."

9 You've told us about reassurance patrols already, so
10 these are uniformed officers on the beat, to use the
11 colloquial; is that right?

12 A. Yes, yes.

13 Q. Engaging with the community, being a visible presence in
14 the community:

15 "These have already attracted the attention of local
16 residents. To mitigate miscommunication of the
17 incident, a pre-prepared briefing has been supplied to
18 local officers."

19 What does that mean?

20 A. From recollection, we had a number of officers that were
21 clearly coming in from other areas and the communication
22 with officers in Kirkcaldy and in fact wider than comms

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1 was being taken forward, that comms strategy was being
2 taken forward by our corporate communications, that also
3 included that internal body. And so from my
4 recollection there was a form of words that was provided
5 internally to staff by our corporate communications
6 department.

7 Q. Was that to guide them in what they could say if they
8 were asked questions by members of the public when they
9 were on patrol?

10 A. In its basic sense, yes.

11 Q. To make sure everybody was saying the same thing and to
12 avoid, as it says here, miscommunication?

13 A. Yep.

14 Q. "Officers from other divisions are also being used
15 locally so it is vital that they receive this briefing
16 to ensure a corporate approach to what is disseminated.

17 "It should be borne in mind that as the
18 circumstances surrounding the death are reported in the
19 media, locally, nationally and perhaps globally, the
20 incident may be linked, by some, to events elsewhere
21 where individuals from ethnic minority groups have died
22 after being involved in altercations with the police."

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- 1 What's being referred to there?
- 2 A. Again, without knowing the direct events that the author
- 3 has included, but I -- my sense from that is events UK
- 4 and abroad.
- 5 Q. What sort of events?
- 6 A. Where persons have died in police custody or as a result
- 7 of police involvement with firearms. That's my
- 8 assessment of it.
- 9 Q. All right. So this is still the part of the document
- 10 that was completed on 4 May by Sergeant Jimmy Anderson
- 11 [sic]?
- 12 A. Jimmy Adamson, yeah. The chronology looks -- it's not
- 13 actually dated that entry but 4th or 5th looking at the
- 14 way the entries go.
- 15 Q. All right:
- 16 "There is an identified risk due to the involvement
- 17 of on duty police officers. Their welfare and support
- 18 has been considered within ... (PIM) procedures. All
- 19 officers involved have had consultation with
- 20 representatives from the Police Federation."
- 21 Why was there an identified risk due to the
- 22 involvement of on duty police officers?

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1 A. Again, probably going back to that assessment then,
2 because the incident involved officers, there was
3 certainly an apprehension on their part in terms of
4 media reporting then the risk, again it's a potential
5 risk, was identified as being possible.

6 Q. And what was the risk that was identified as being
7 possible?

8 A. An all encompassing one, whether that's -- not
9 necessarily just a physical risk but commentary,
10 you know, naming in the media, which may ... So not
11 a specific type of risk, a generic risk that they may,
12 you know, it may attract negative media attention for
13 them.

14 Q. The officers involved?

15 A. Yeah.

16 Q. If we look to the bottom of that entry we see a heading:
17 "Update from Community Impact and Reassurance Group
18 meeting held at 1100 hours on 5/5/15."

19 Now, Superintendent you have got the full community
20 impact assessment in front of you, and if you flick
21 through it I think you will see that from this point on
22 there are perhaps about 20 pages or thereby of updates,

TRANSCRIPT OF THE INQUIRY

1 summaries from various meetings, conversations,
2 briefings, all recorded in one place, as you explained
3 to us?

4 A. There is, yeah.

5 Q. Would that be a fair summary of what remains of this
6 document?

7 A. Yeah, yeah, it's --

8 Q. As I said earlier, it will be published, it will be made
9 available, people can read it, so I don't intend to take
10 you through every single entry, I would just like to go
11 to key parts of certain entries and seek your comment.

12 So the first meeting recorded is the one we see
13 before us now, the update from the Community Impact and
14 Reassurance Group. Tell us before we look at the entry
15 here what the Community Impact and Reassurance Group is,
16 we've heard so far about the lay advisers, the Lay
17 Advisory Group, elected members; what's the Community
18 Impact and Reassurance Group?

19 A. So this group almost sat alongside the Lay Advisory
20 Group, so what came from the Lay Advisory Group would be
21 fed into the Community Impact and Reassurance Group, in
22 the sense of what are our community advisers telling us

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1 about that community impact.

2 It would then, looking at that chronology, be
3 discussed at that Community Impact and Reassurance
4 Group, which would be attended by myself, superintendent
5 operations, if not the divisional commander, certainly
6 for the initial meetings from memory would have been
7 there. It would be community inspector at Kirkcaldy,
8 the community sergeant, I think, from memory, would have
9 been at those, the Scottish Police Federation were
10 represented. Possibly corporate communications.

11 Q. Were the lay advisers or elected members part of that?

12 A. No.

13 Q. So they were separate?

14 A. Yeah.

15 Q. Let's look at the minutes of this meeting. There's
16 a paragraph about the post-mortem results. I think we
17 can move beyond that and look at the second paragraph:

18 "It has been decided that high-visibility
19 reassurance patrols will continue during [5 May~...]
20 however it is felt that continuing patrols beyond this
21 date may have a detrimental effect and cause the public
22 to become more concerned about the incident. However,

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1 officers will remain in the area carrying out high
2 visibility house-to-house enquiries which it has been
3 assessed should provide appropriate reassurance."

4 What was the concern about continuing these
5 high-visibility reassurance patrols beyond 5 May?

6 A. Without recalling the specifics of that conversation,
7 but -- so up until that point officers would have been
8 on point in that area, so that visible presence would
9 have been retained right through 3rd, 4th and I think
10 potentially into 5th. So the ultimate aim in terms of
11 community reassurance is to restore normality, and it's
12 to what point then, if we've managed that scene and we
13 don't need that -- maybe the locus protection and those
14 visible officers there for that reason, how long do you
15 keep patrols in that area, that it becomes less
16 reassuring, you know, if that's a way to put it.

17 So it's just almost an assessment of how helpful is
18 it to restore normality or is it drawing attention to
19 that area when, you know, we're actually creating that
20 as opposed to, you know, anything else.

21 Q. Trying to strike a balance?

22 A. Yes.

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1 Q. "National newspapers have covered the incident. The
2 reporting has been described as balanced and unlikely to
3 cause any adverse reaction from the public.

4 "The incident has been discussed on social media. A
5 previous partner, who has a child to the deceased, has
6 posted concerns that she found out about the death from
7 social media rather than being notified by the police.
8 PIRC have been advised to contact the individual as
9 a priority. Social media posts in relation to the
10 incident are being monitored by the DIO. It was
11 reported that there had been no posts to suggest public
12 unrest."

13 I'm interested in this reference to Mr Bayoh's
14 previous partner having posted concerns that she found
15 out about the death from social media. So the
16 suggestion that she posted concerns suggests that she
17 has in turn used social media as a platform to voice
18 those concerns; am I reading that sentence correctly?

19 A. That's certainly my interpretation as well, yeah.

20 Q. So as part of the social media monitoring that you've
21 told us was going on, can we take it that there has been
22 some monitoring carried out on presumably public-facing

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1 media posts, social media posts, by Mr Bayoh's previous
2 partner?

3 A. That's certainly how that reads to me, yeah.

4 Q. Carrying on:

5 "A representative from the Scottish Police
6 Federation was present during the meeting."

7 Do you recall who that was?

8 A. On the 5th?

9 Q. On the 5th.

10 A. There should be a minute to say, but I don't know, but
11 I don't remember meeting too many of them during that,
12 so I'm assuming Amanda Givan.

13 Q. Yes, she was certainly involved on the 3rd.

14 A. Okay.

15 Q. "The officer explained that she was providing support to
16 the officers concerned and had met most during [the
17 4th~...]. Police Incident Management debriefing will
18 take place after discussions with PIRC. The
19 representative mentioned that several phone calls had
20 been received from officers concerned that this may have
21 been a terrorist incident. Media will discuss the
22 matter with the Executive for consideration of

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1 an internal communications message to be sent to
2 officers to allay any fears that the matter has a CT
3 link."

4 I'm interested in the second part of that paragraph:
5 "The representative mentioned ... several phone
6 calls had been received from officers concerned that
7 this may have been a terrorist incident."

8 Can you advise whether the representative said those
9 phone calls had come from officers who attended
10 Hayfield Road or from other officers?

11 A. I couldn't say.

12 Q. There's reference to the matter being discussed with the
13 executive, what's the executive in that context?

14 A. By the context the force executive, I think that's
15 the -- or senior, you know, Chief Constable, deputy
16 chief constable, assistant chief constables, and police
17 staff equivalents.

18 Q. There was mention of the matter being raised with the
19 executive:

20 "... for consideration of an internal communications
21 message to be sent to officers to allay any fears that
22 the matter has a CT link."

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1 Do you know whether that happened?

2 A. I don't. That would be corporate communications, so
3 that bronze structure, there was a communications bronze
4 who would take that on behalf of the Gold Group.

5 Q. That wouldn't fall within your remit, that would be part
6 of someone else's.

7 Let's look at the next entry:

8 "Update from Community Impact and Reassurance Group
9 meeting held at~..."

10 1 o'clock on 6 May. I just note in passing the
11 second paragraph there records that:

12 "The DIO are continuing to monitor social media. It
13 was established through social media that a public
14 meeting was scheduled to take place at 1900 hours on
15 [the 5th~...] at Templehall Community Centre."

16 Is that an example of the sort of information that
17 you're gleaning as a result of the social media
18 monitoring?

19 A. That's certainly come up, hence the DIO's brought it
20 into that meeting.

21 Q. Okay, and if we carry on to the next page, the second
22 paragraph from the top, there's a reference there to

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1 a Facebook page and at the bottom of that second
2 paragraph a Twitter feed. So again that tends to
3 suggest that's part of the monitoring of social media,
4 there is some monitoring of Facebook pages and of
5 Twitter; would that be fair?

6 A. Yeah.

7 Q. Let's move further down the page. The next heading,
8 "Elected members update":

9 "Chief Inspector Shepherd attempted to update local
10 elected members at about 1600 hours on [6 May...].

11 "Two elected members expressed concern at the amount
12 of speculation both in local communities and media
13 around the circumstances. Chief Inspector Shepherd
14 explained that PIRC were investigating the circumstances
15 and that Police Scotland would not be providing any
16 media releases. Elected members emphasised that they
17 had been unable to provide any information to their
18 constituents owing to a lack of information about the
19 incident itself. Some have been asked if the incident
20 was CT-related and if the officers were firearms
21 officers. Chief Inspector Shepherd was unable to
22 comment."

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1 Then there is a query about the female officer who
2 had been injured. I would like to ask some questions
3 about this paragraph:

4 "Two of the elected members have expressed concern
5 about the amount of speculation in local communities and
6 media around the circumstances."

7 Do you know what the nature of that speculation was?

8 A. I don't now, no.

9 Q. You have apparently explained that the PIRC were
10 investigating the circumstances and Police Scotland
11 would not be providing any media releases; why was that?

12 A. That was the position that was taken by the
13 organisation, not by me but obviously I respected that
14 decision.

15 Q. By Police Scotland, when you say "the organisation"?

16 A. Yeah, sorry, yeah.

17 Q. "Elected members emphasised that they had been unable to
18 provide any information to their constituents owing to
19 a lack of information about the incident itself."

20 Were the elected members looking to you or to the
21 wider -- to Police Scotland in the wider sense to
22 provide them with information so they could inform and

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1 reassure ... (audio cuts out) ...

2 A. Yes, because that's the role ordinarily that they

3 perform, you know, is to link in with their local

4 community, so yes.

5 Q. We see it recorded here that they felt unable to provide

6 information to constituents because they had a lack of

7 information themselves. Some had asked if the incident

8 was CT-related and if the officers were firearms

9 officers, and it's recorded here that,

10 "Chief Inspector Shepherd was unable to comment".

11 Now, I know you were asked about this paragraph in

12 your Inquiry statement, so let's take you to that,

13 please, can we go to paragraph 40 of your Inquiry

14 statement:

15 "I'm asked about the Community Impact Assessment~..."

16 and the section~..."

17 That we have just looked at together, so we can move

18 beyond the italic text because it repeats what we have

19 just read out:

20 "I'm asked why I couldn't confirm that it wasn't

21 counterterrorism related and that the officers were not

22 firearms officers at that point. My recollection is

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1 that Police Scotland was not engaging with the media at
2 all. There was nothing going out. The engagement I had
3 with community reps, elected reps, and councillors was
4 really succinct. If there was a form of words,
5 I would've written it down somewhere as to what was
6 said, but really I was never going to elaborate on
7 anything."

8 Can I ask you to elaborate on that, you say your
9 recollection is that Police Scotland was not engaging
10 with the media at all, nothing was going out, did that
11 make you feel restricted or indeed hamstrung in your
12 dealings with these councillors in terms of providing
13 information to them? Did you have to align yourself
14 with the approach that Police Scotland had taken with
15 the media?

16 A. Yes, it did make my job that bit more difficult, because
17 ordinarily the relationships I have with those,
18 you know, community representatives, community
19 councillors, is such that, you know, it's not disclosing
20 information that's confidential anyway in a routine
21 sense, but they come to us for reassurance on matters
22 and, you know, I can give them levels of, you know,

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1 non-sensitive information. On this occasion that wasn't
2 possible, so I felt they found that quite difficult then
3 to do what their role is, which is, you know, inform
4 communities of things that are going on to manage any
5 community tension. So hamstrung's probably a good term,
6 that it did make my role with them more difficult than
7 it ordinarily is.

8 Q. And this was because of the need to align yourself with
9 the Police Scotland stance of not putting any
10 information into the public domain?

11 A. Yeah.

12 Q. Clearly the elected representatives brought their
13 concerns to your door, they were finding it hard to
14 reassure their own constituents, or indeed inform them
15 as to the circumstances and you felt the impact of that
16 yourself. What steps, if any, did you take to obtain
17 clearance or authority to provide the elected
18 representatives with the type of information that they
19 felt they needed in order to inform and reassure their
20 constituents?

21 A. That was an evolving process because at certain moments
22 in time, you know, I didn't know if that was going to be

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1 the stance, you know, forever or if that was just,
2 you know, a momentary point and then clearly that
3 investigation wasn't sitting with Police Scotland any
4 more so, you know, would it be the case then that it
5 would evolve and the community -- the answers maybe to
6 the questions that they would want would come maybe not
7 from us.

8 So I suppose I was managing it day-to-day and
9 I think from the outset, so I had a form of words that
10 I could share that I think was approved by Crown and
11 PIRC, very brief in terms of the circumstances, that
12 I think actually went out on 3 May or when I did those
13 communications by phone and email, I think I said
14 earlier on, so it would have never developed, in my
15 sense, of going beyond that initial agreed form of
16 words.

17 Q. I don't think I've seen that form of words. Do you
18 recall --

19 A. No, I don't, and -- but I do believe it's referenced
20 somewhere either within the gold -- I'm maybe wrong in
21 that, though, but it is referenced somewhere round about
22 that, the Crown approval of those -- those, whatever

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1 I was going to say, those brief description of events.

2 Q. You described it as a brief description of events, was
3 it short and to the point?

4 A. From memory, it was very short and to the -- so much so
5 that they were clearly back within days asking: could
6 I tell them any more.

7 Q. Now, did you know yourself that in fact this was not
8 a counterterrorism related incident and that the
9 officers were not firearms officers, did you have that
10 information?

11 A. In terms of the CT I had no evidence to say it was, but
12 that's not to say -- you know, I wasn't in possession of
13 all the facts. Were they firearms officers? I think
14 I have said in my Inquiry statement, the officers have
15 different specialisms, so to ask a specific question,
16 "Is that a firearms officer?" One of the officers may
17 well have been a firearms officer but not deployed in
18 that capacity on the day. They hold specialisms,
19 you know, that they may be called out to use, so
20 I actually couldn't answer that question with any
21 certainty because I didn't know if any of them held that
22 speciality, so I took the decision to say I didn't --

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1 you know, I couldn't answer those questions because
2 I genuinely didn't know the answer.

3 Q. What steps, if any, did you take to find the answers,
4 did you for example go back to the SIO and say, "Have
5 you eliminated or otherwise counterterrorism as being
6 a motivation for this incident? People are asking,
7 communities need reassurance". Is that something that
8 you did?

9 A. Yeah, so these are points that so then came through that
10 community reassurance group, you know, I would bring all
11 these, that scanning and analysis bit that we spoke
12 about would come to that community reassurance group, so
13 we had clearly representatives from, I didn't say,
14 I think the MIT, the Major Investigation Team were
15 represented and were almost doing the spot(?) role for
16 the PIRC, so they would come so all of these points and
17 points I was being asked I would relay back to give
18 a sense of: here's what I'm, you know, being asked and
19 being made aware of, so that could be, if relevant,
20 relayed to the investigation team, which clearly that's
21 separate of us.

22 Q. And do you recall specifically whether you raised these

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1 two particular points around CT and whether the officers
2 were firearms trained, were those queries fed back to
3 the investigation team with a view to you having answers
4 to those questions so that you could convey that
5 information to the elected representatives?

6 A. Again, the point with CT, I think you already
7 highlighted it, it came through the staff as well so it
8 wasn't a singular group that were asking that question
9 and ultimately I wasn't in a position to answer that,
10 but I think it was becoming widely known in the
11 organisation that it had been asked, both with staff and
12 elected members, clearly.

13 With the armed -- with the firearms officers,
14 I don't remember going to speak about it, but then
15 I suppose that's that point about, I'm not sure of the
16 relevance for them at that point to get that urgent
17 information that I would think: I need to go away and do
18 that right now to feed that back, it's -- I think they
19 asked out of -- I don't want to say why they asked but,
20 you know what I mean, it's just that bit about would
21 that have been a priority right then to go and find that
22 out? It wasn't in my eyes.

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1 Q. What was the impact of you not being able to provide
2 this information to the elected members?

3 A. Because the (inaudible) we build up, you know, the trust
4 and mutual confidence in one another, so they may --
5 and, you know, without speaking on their behalf -- have
6 felt that I was withholding information that would help
7 them ultimately do the role they'd been elected to do.
8 I wasn't withholding it, I simply didn't know it. And
9 I suppose I tried to reassure them by telling them that
10 I actually didn't know, it wasn't that I knew and
11 I couldn't tell them. I simply didn't know. So I think
12 I was as honest as I could be to explain why I didn't
13 know, because it was an independent investigation of
14 Police Scotland.

15 Q. And that lack of information, for whatever reason, what
16 impact do you feel it had on your relationship with
17 these elected members, and perhaps Police Scotland's
18 relationship with the elected members?

19 A. The elected members that I was engaged with were very
20 Kirkcaldy focused, so I'd like to think they took my
21 explanation in the way that I delivered it, which is
22 simply I can't answer those questions because I don't

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1 know. I'd like to think it wouldn't have a hugely
2 detrimental impact, but I can understand how they could
3 be frustrated by that.

4 Q. Can we return to the community impact assessment,
5 please. And to the bottom of page 8. So the next
6 meeting, this is following on from the elected members
7 update at 4 pm on the 6th, we have an update from
8 a meeting which took place with the lay advisers at
9 1300 hours on 7 May.

10 I'm not sure if I can pronounce this name, but
11 Mr. Dukurno from the Fife Migrants Forum, and Mr Sayed,
12 a lay adviser at legacy Central Scotland Police, along
13 with yourself, Inspector Combe, Detective Superintendent
14 Crosan, PC Buttercase, Inspector Aliane from National
15 Safer Communities and PS Jimmy Adamson, who's the
16 officer who prepared the draft assessment were all
17 present during the meeting and you chaired the meeting.

18 Now, the first of the two names, Mr Dukurno and
19 Mr Sayed, are they the two lay advisers?

20 A. Yes.

21 Q. Who were ultimately brought on board? And Mr Dukurno,
22 is he the gentleman who was of Polish heritage?

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1 A. That's right.

2 Q. And Mr Sayed is the gentleman who you distributed as
3 being of Muslim faith but you are unsure as to his
4 ethnicity?

5 A. That's right.

6 Q. So these were the two lay advisers and otherwise it
7 rather appears that everyone else present was from
8 Police Scotland; is that right?

9 A. Yes.

10 Q. You chaired this meeting?

11 A. Yes.

12 Q. If we scroll down a little to the top of the next page,
13 please, if we stop there. At the very top we see:

14 "Chief Inspector Shepherd explained that the PIRC
15 were dealing with the case in isolation of Police
16 Scotland to preserve the integrity of the investigation
17 and therefore only limited information was known
18 regarding the circumstances of the death and the
19 familial background of the deceased, in particular in
20 regulation to the deceased's faith."

21 What did you mean by:

22 "... the PIRC were dealing with the case in

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1 isolation of Police Scotland to preserve the integrity
2 of the investigation~...?"

3 A. "In isolation" should be "independent of". That's
4 probably what's being described in the minute there.

5 Q. And you explain that:

6 "..., therefore only limited information was known
7 regarding the circumstances of the death and the
8 familial background ... in particular the deceased's
9 faith."

10 So why was limited information about the background,
11 circumstances and the deceased's faith, why was limited
12 information available to you as a result of PIRC leading
13 on the investigation?

14 A. Because it wasn't -- it wasn't coming back from PIRC who
15 were engaging with the family, despite asking.

16 Q. If we look down a little bit to the third paragraph:

17 "Both Dukurno and Sayed volunteered to contact the
18 mosque to act in an independent basis as intermediaries
19 for Police Scotland to establish the faith of the
20 deceased and his family and arrange a meeting between
21 community officers and the Imam. At this stage it was
22 decided that a decision would be made after further

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1 information had been made available from the PIRC
2 regarding the mosque that the deceased and/or his
3 relatives attend."

4 So there was a discussion around the advisers taking
5 the role of intermediaries; did you have any concerns at
6 all about that proposed course of action?

7 A. I did, yes, because that wasn't their role.

8 Q. I see, and if we could look perhaps very briefly at the
9 SOP, the Lay-Community Advisers SOP, that's PS11955.
10 Perhaps the bottom of page 4, please, paragraph 3.4.

11 We looked at this earlier and there's a section on
12 the roles and responsibilities of the lay advisers and
13 what their role might include and examples of how they
14 can be utilised. We see here at 3.4:

15 "Lay advisers/community advisers should not be used
16 in the following circumstances:

17 "Undertaking enquiries on behalf of the SIO.

18 "Acting as an intermediary to aid communication
19 between victims/families/witnesses - this is the role of
20 the family liaison officer (FLO) who may receive advice
21 from the lay/community adviser."

22 So although I think you said you hadn't seen this

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1 SOP before, your understanding was that the lay advisers
2 shouldn't be used in the sense that was being
3 proposed --

4 A. Shouldn't.

5 Q. -- at the meeting?

6 If we can return to the community impact assessment,
7 please, we were at the top of page 9, so if we can look
8 at the paragraph that is presently the bottom paragraph
9 on the screen:

10 "The lay advisers were concerned about the lack of
11 information that had been made available by
12 Police Scotland to the public. Chief Inspector Shepherd
13 reiterated that the investigation was being carried out
14 by the PIRC and that any media release would be issued
15 by the PIRC. A further discussion took place in respect
16 of providing the public with a greater understanding of
17 the role of the PIRC as it was felt that the general
18 public would not realise that the PIRC was
19 an independent body from the police. Detective
20 Superintendent Crosan said that he would task Lucy
21 Adamson from Corporate Communications to speak to the
22 PIRC officer in relation to releasing more information

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1 to the public."

2 So do we see here that the previous day concerns
3 having been expressed by the elected members,
4 the councillors, about a lack of information, those very
5 same concerns were also being brought to your door by
6 the lay advisers?

7 A. ... (audio cuts out)~... Was, yeah.

8 Q. Can we turn now to your Inquiry statement again, please,
9 where you comment in a little more detail. We can look
10 at paragraph 38:

11 "I'm asked about the lay advisers that were involved
12 with the Community Impact and Reassurance Group and the
13 fact that, at times they seem to have had insufficient
14 information to carry out their roles. I felt they were
15 frustrated and hampered by the lack of information we
16 were able to provide them. They had questions that they
17 felt knowing the answer to would assist them in
18 providing advice. I think it definitely frustrated them
19 that they would ask questions of us in that group, and
20 I genuinely couldn't answer. I couldn't answer because
21 in most cases I didn't know the answer. One such
22 example was not knowing the faith and background of

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1 Mr Bayoh. We had made the request through the MIT to
2 the PIRC to have that information but I never received
3 it, that then limited what they could suggest or
4 recommend."

5 I'd like to ask you some questions about this.
6 We've heard evidence that, I think from as early as
7 3 May, it was at least known that Mr Bayoh's family were
8 Muslim, there may have been the question as to the
9 extent to which Mr Bayoh was devout or otherwise, but it
10 was known that the family were a black family from
11 Sierra Leone and they were a Muslim family.

12 Why have you given an example of not knowing the
13 faith and background of Mr Bayoh; what information did
14 you feel that you didn't have, that you weren't getting
15 from the MIT, that wasn't coming back to you from the
16 PIRC?

17 A. You know, everything about the -- in a normal
18 circumstance, we would have, you know, a full background
19 of the individual, that would be the role of the FLO,
20 you know, to bring that back and let everybody know,
21 you know, how that would impact on what we were trying
22 to do.

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1 So the -- from my point of view, you know, I wanted
2 that information verified. I know it's within this
3 document before about practice and faith but I hadn't
4 categorically heard that, that I could provenance that
5 back from the family and until such times I didn't think
6 it was right for me to go out and -- without knowing
7 exactly where it came from. My ask was could the PIRC
8 ask the family and then that way I'd be confident in
9 relaying or, you know, passing that information on to
10 the lay advisers. Otherwise I was worried we would get
11 advice that then wasn't actually reflective of the
12 family dynamic. And I wanted to know what the family
13 dynamic was so I could understand it.

14 Q. You didn't want to make any assumptions?

15 A. Exactly, yeah.

16 Q. Did you feel then that you didn't have sufficient
17 clarity around the family background and in particular
18 Mr Bayoh's faith?

19 A. I didn't.

20 Q. And you say in your Inquiry statement you had made the
21 request through the MIT to the PIRC to have the
22 information but had never received it. How did you go

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1 about making that request?

2 A. So those requests, because -- so that Community Impact
3 and Reassurance Group was represented by the Major
4 Investigation Team, there was a member of staff at that.
5 They were the point of contact for the PIRC. So I would
6 raise at the reassurance group, "Can we get this
7 information?" And I would relay the frustrations as
8 you've already outlined, and the ask would then go, in
9 my view, from the MIT to the PIRC, come back and let us
10 know. We asked that several times.

11 Q. So this was asked more than once?

12 A. Yes.

13 Q. Did you ever get a reply?

14 A. No.

15 Q. How did the lack of this information affect your ability
16 to carry out your role?

17 A. It's very difficult when you don't -- when you're
18 talking about community reassurance, that community
19 involved the family, it was very much about
20 understanding their needs, the sensitivities that
21 I needed to be aware of to make sure the actions of the
22 police and what I could feed back to the wider community

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1 was correct and proportionate. In the absence of that,
2 I don't have that level of understanding, and not having
3 that then you're always cautious about what you don't
4 know. So it made it, it made it difficult in my role
5 because I regarded them as a key part of assessing
6 community impact.

7 Q. How did the absence of that information impact on your
8 relationship with the lay advisers?

9 A. I think it's evident in the -- you know, in their
10 questions. They found it -- they'd come in to aid,
11 you know, the community and aid us and making sure we
12 managed and were aware of cultural sensitivities and
13 they were asking questions so they could give advice and
14 they were ultimately hampered because they were going to
15 base that advice on the information that I could provide
16 them about -- you know, they would understand the
17 community because they were -- they came from the
18 community, but they wanted to know about the family. So
19 did we.

20 Q. So there was also an impact then on their ability to
21 advise you; because they didn't have the foundation upon
22 which to offer advice.

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1 A. Yeah, they relayed that to me, that they felt this was
2 difficult because of that.

3 Q. Let's look at paragraph 39 of your statement:

4 "In my PIRC statement ... at page 4 it states 'In my
5 role and in the aftermath of Mr Bayoh's death I have had
6 meetings with independent lay advisers. In general
7 these meetings dealt with issues regarding cultural
8 matters including what to expect in the run-up and
9 during the course of a Muslim funeral. Likewise, the
10 advisers make it known to police that there was
11 a perceived view in the public domain that there was
12 a lack of information concerning the circumstances of
13 Mr Bayoh's death'. From memory, it was probably
14 a combination of the lack of media reporting, lack of
15 information coming from the police and, in general, in
16 terms of the lack of information in the public domain.
17 I think they felt, when giving advice as part of that
18 group, that other than giving general advice, the
19 specifics of this incident weren't known to them. They
20 weren't, in effect, known to me either because clearly
21 we were not involved in the investigation. So my
22 recollection of some of those meetings was, not knowing

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1 the specifics and background, and not having fuller
2 information about the incident itself made their role
3 more difficult in terms of providing advice."

4 You say too there that the circumstances weren't
5 known in effect to you either as you were not involved
6 in the investigation; is that because PIRC was leading
7 the investigation?

8 A. Yes.

9 Q. What difference do you think it would have made if this
10 had been a police-led investigation in terms of your
11 access to information that you felt you needed in order
12 to properly inform the lay advisers so they could give
13 you effective advice?

14 A. If the Police Scotland were leading and clearly deployed
15 the family liaison officers, part of that role is to
16 gather all the needs and wishes and concerns of the
17 family. That's the role. So that, in managing it and,
18 you know, in another incident where we were deploying
19 FLOs and we had a Gold Group and I was monitoring
20 community impact, that information is massively
21 important for me to understand, you know, the impact on
22 the community and the impact on our actions as well, in

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particular towards the family.

2 Q. Did you have any dealings with FLOs, police FLOs or PIRC
3 FLOs at any time?

4 A. I didn't, no.

5 Q. We can return to the community impact assessment,
6 please. We had got as far as page 9. If we stop there,
7 thank you. We've just looked at the entry one above and
8 the next entry is an update from the Community Impact
9 and Reassurance Group meeting held at 1500 hours on
10 7 May. That's a very short update so I'd like to
11 actually take you to the minutes.

12 A. Okay.

13 Q. So if we could look now at PS01461. I want to be clear
14 firstly whether this relates to the same meeting, it's
15 the only meeting that is documented as having taken
16 place with Community Impact and Reassurance Group on
17 7 May in the community impact assessment but the timing
18 on the minutes is slightly different.

19 A. Okay.

20 Q. So perhaps you can help us with that, so this is
21 PS01461.

22 (Pause)

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1 Just while we're waiting for that to happen -- here
2 it is on the screen -- I'm wondering in fact whether
3 these minutes might actually relate to the meeting that
4 we've just been talking about, which was the update
5 following the meeting with the lay advisers at 1 o'clock
6 on 7 May 2015.

7 I have the luxury of being able to look at two
8 documents simultaneously at the moment and I notice that
9 the list of attendees at this meeting, which is headed
10 up: "Minutes from Community Impact and Reassurance Group
11 lay advisers subgroup meeting", is exactly the same list
12 of attendees as were present at the meeting with the lay
13 advisers on 7 May which we've just been looking at.

14 But in any event, if we -- it may not matter,
15 there's just one paragraph here that I was keen to take
16 you to, so if we scroll down and if we look at the first
17 paragraph, there are introductions:

18 "Chief Inspector Shepherd explained that the PIRC
19 were dealing with the case in isolation of
20 Police Scotland."

21 That language is familiar to us, that's been copied
22 over into the community impact assessment. But if we

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1 read to the bottom of that paragraph there's a little
2 extra piece of information here which hasn't made it's
3 way into the community impact assessment:

4 "Mr Sayed highlighted that there are different sects
5 of the Muslim Faith and it would be important to know if
6 deceased is a Sunni, Shi'ite etc Muslim. Mr Sayed
7 stated that he would estimate that the African Muslim
8 population in Fife would be approximately 1%."

9 Do you recall that conversation at all and do you
10 recall Mr Sayed's contribution?

11 A. Not now, sadly, no.

12 Q. And do you have an understanding as to why it might be
13 important to know whether the deceased was a Sunni
14 Muslim or a Shi'ite Muslim?

15 A. Absolutely, yeah.

16 Q. Why would that be important to know?

17 A. Again, different practices, cultures, anything like that
18 we would need to know.

19 Q. Who took the minutes, do you recall?

20 A. Is this the Lay Advisory Group?

21 Q. It appears to be the Lay Advisers Subgroup meeting.

22 A. Looking at the attendees, sorry, I don't know if you can

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1 just scroll slightly up and I can probably tell you
2 who's there.

3 (Pause)

4 From that, I would say Jimmy Adamson, but I can't be
5 certain but --

6 Q. It wasn't yourself?

7 A. It wasn't me.

8 Q. I'm just interested in one word that was used, I don't
9 know whether it was used by Mr Sayed or whether it's
10 been used by the person who noted the minutes to capture
11 what Mr Sayed said:

12 "Mr Sayed highlighted that there are different sects
13 of the Muslim Faith~..."

14 And I just wondered if you had any observations on
15 the use of the word "sects" in that context?

16 A. Not particularly, no.

17 Q. Is it a word that you're comfortable with?

18 A. Erm ...

19 (Pause)

20 It's hard to tell how it's been worded but it's ...
21 comfortable, maybe in terms of the interpretation of
22 that?

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1 Q. Just in terms of it potentially having perhaps
2 a negative association. Perhaps it doesn't. I just
3 wondered what your view was.

4 A. I hadn't seen the text up until now, so if it's ...
5 I don't recall the saying, so it's difficult to comment.

6 Q. That's all right, that's fair, we'll move on from that.

7 If we could return to the community impact
8 assessment, please, and if we could go to page 10, at
9 the very bottom of page 10 there is an update from the
10 Community Impact and Reassurance Group meeting at
11 1100 hours on 11 May, so that's where we are, but if we
12 just scroll down a little bit, please, to the final
13 paragraph relating to that meeting, a little bit
14 further, please, there we are:

15 "To date, no further information has been gleaned
16 from the PIRC in relation to the familial background of
17 the deceased. However, Chief Inspector Shepherd will
18 contact [Inspector] Aliane (National Safer
19 Communities~...) in relation to organising a further
20 meeting with the lay advisers."

21 Is this a reference back to what you had explained
22 earlier that you had asked, via the MIT, PIRC for

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1 information about Mr Bayoh's family background?

2 A. It appears, yeah, that's a direct reference to that,
3 yeah.

4 Q. And it's been recorded and by this point on 11 May that
5 no further information has been forthcoming?

6 A. Yeah.

7 Q. If we can scroll down to the bottom of page 11, please,
8 just to get our bearings, there we are, this is
9 an update now from the Community Impact and Reassurance
10 Group meeting on 13 May and over the page at the bottom
11 of that entry, a little bit further, please, there we
12 are, just at the bottom of the screen, sorry, stop. No,
13 no. Now at the top of the screen:

14 "No further information has been gleaned about the
15 familial background of the deceased or when the funeral
16 will take place."

17 A further reference to lack of information coming
18 from the PIRC and that was on 13 May?

19 A. Yeah, that was correct.

20 Q. And if we move on to page 13, please, about halfway down
21 page 13, there's an update from the Community Impact and
22 Reassurance Group meeting 12.35 on 14 May, and in the

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1 second paragraph it says:

2 "Detective Inspector Wilson said that he was in
3 regular dialogue with the PIRC and that to date there
4 was no date fixed for the defence post-mortem. He also
5 said that he did not know the faith of the deceased."

6 So further reference to that information still not
7 being in your possession?

8 A. That's correct, yeah.

9 Q. Can we look at one of your daybook entries, please, this
10 is PS09169, again 14 May, if we can scroll, this is
11 a two-page or the second page of this document, please,
12 very bottom of the second page, there's your notes,
13 I think, that refer to the same entry:

14 "12.40. [Community Impact and Reassurance Group]
15 Chair [Superintendent] Milton.

16 "Factual updates: DI Wilson - no date on PM or
17 funeral. ... no details of Muslim sect. No information
18 re Sierra Leone funeral."

19 This appears to be a handwritten note which
20 correlates with the entry in the community impact
21 assessment that we looked at a moment ago?

22 A. Yeah.

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1 Q. And there's perhaps a little more information in your
2 note here. Again, we see the word "sect":

3 "No details of Muslim sect."

4 On this occasion this is in your own notes, this is
5 your daybook and again, are you comfortable with the
6 language you have used there?

7 A. I think I've clearly reflected what was in the last
8 update. It's not a word I've -- I'm probably overly
9 familiar with, and I've clearly taken that from,
10 I think, the last meeting. If that's, you know, been
11 used in a sense that's offensive I'm -- you know, I had
12 not been aware of that, so I apologise if that's the
13 case but without -- you know, just looking at how it has
14 been worded, I've clearly transposed it across, so ...

15 Q. I'm not accusing you of anything, I'm just --

16 A. Apologies (inaudible - overspeaking) I'm looking at it
17 now, it's not a term I'm probably familiar with so I can
18 only say I think I've transposed it over from that Lay
19 Advisory Group and included it.

20 Q. There's a reference here:

21 "No info re Sierra Leone funeral."

22 Was it your understanding that there was going to be

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1 a funeral in Sierra Leone?

2 A. No, but I don't know where that update's come from, to
3 be honest, it looks like I'm taking note -- I tend to
4 take notes when somebody says something that I didn't
5 know because I think, you know, "Is this relevant"? So
6 I think I've jotted it down because somebody's mentioned
7 it somewhere in that group and I've thought, "I didn't
8 know that", hence why I've jotted it down.

9 Q. Okay. Did you have an understanding from what was said
10 at the meeting that Mr Bayoh's body was to be taken back
11 to Sierra Leone, that there was going to be a funeral
12 there? Is that what you understood was going on?

13 A. I had never been aware of that, no.

14 Q. As you say it's perhaps simply something that's taken
15 you by surprise or that you were unaware of and you have
16 made an entry --

17 A. Yeah, to be honest I don't recall that.

18 Q. Can we go back to the community impact assessment,
19 please, and page 15. Could we go to the very bottom of
20 page 15, please, this is just a little bit further up,
21 we can see this is an update from a meeting with the lay
22 advisers on 22 May, and if we look at the two bottom

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1 paragraphs:

2 "Chief Inspector Shepherd said that the Daily Record
3 had contacted Police Scotland with a series of
4 questions, which the paper were requesting responses to,
5 in relation to the death. The Chief Inspector detailed
6 that Police Scotland were not in a position to make any
7 comments to the request as the matter was being
8 investigated by PIRC."

9 And you've explained to us earlier why:

10 "Dukurno said that making no comment could be viewed
11 with suspicion by the public. He suggested that it may
12 be prudent for Police Scotland to provide an account of
13 the role of the PIRC and the reason why Police Scotland
14 cannot make any comments about the case to the media,
15 rather than having no dialogue with the press
16 whatsoever. Chief Inspector Shepherd said that she
17 would contact Corporate Communications to discuss this
18 matter further and that she would report this back to
19 the group at a later date.

20 "Sayed agreed that the public would benefit from
21 more information and asked whether the police were using
22 social media. Chief Inspector Shepherd said that at

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1 both the national and local level the police were very
2 good at using social media, however were completely
3 restricted in posting using the medium in relation to
4 the death because the investigation was being conducted
5 by the PIRC.

6 "Dukurno mentioned that it may be useful if the
7 Police Federation made a further statement covering the
8 role of the PIRC and the reason that Police Scotland
9 could not comment about the investigation. He went on
10 to remark that it was important that the police officers
11 working in the community were briefed in relation to
12 what they could say when asked.

13 Chief Inspector Shepherd said that she would contact
14 PIRC in relation to a form of words that could be used
15 in such situations."

16 So again, do we see the same frustrations being
17 expressed around the "no comment" stance being taken by
18 Police Scotland in relation to the incident?

19 A. Yeah, I mean, I think it's evident that, you know, in
20 the absence of more information coming out then the lay
21 advisers were seeking other ways to, you know, to manage
22 that community impact. So at that point they're

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1 suggesting, you know, is there information that can go
2 out about actually the PIRC and their independence that
3 may -- that may assist.

4 LORD BRACADEL: Ms Thomson, we need to take the 15-minute
5 break. Would that be a convenient point?

6 MS THOMSON: It would, sir, yes, thank you.

7 (3.00 pm)

8 (A short break)

9 (3.22 pm)

10 LORD BRACADEL: Ms Thomson.

11 MS THOMSON: Thank you, sir.

12 Before the break we were discussing the form of
13 words that was to be used for the media release, and
14 I've had the opportunity to do a little bit of digging
15 in the break and I wonder if I could take you to
16 a particular document, it's PS42795. You might not have
17 seen this before. If we scroll down it's the sort of
18 email that you need to read from the bottom up. So this
19 is an internal communication dated 3.30 or thereabouts
20 on 3 May. It's a draft, I understand, and it reads as
21 follows:

22 "Death in police custody, Kirkcaldy.

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1 "At around 7 am this morning (Sunday May 3rd) police
2 in Kirkcaldy responded to a number of calls from members
3 of the public reporting a man brandishing a knife in the
4 Hayfield Road area.

5 "On arrival the officers encountered the man and
6 whilst attempting to apprehend him he lost consciousness
7 and a female officer also sustained a head injury.

8 "Police officers commenced first aid procedures and
9 the man was taken to Victoria Hospital by the Scottish
10 Ambulance Service, where he sadly died. The female
11 officer was also taken to hospital, and she has now been
12 released.

13 "Divisional Commander Chief Superintendent
14 Garry McEwan said: 'This is a tragic set of
15 circumstances and my condolences go to the man's family.
16 We currently have officers with them to provide
17 information and support where appropriate.

18 "'We recognise that this is an extremely difficult
19 and distressing time for both the family and the
20 officers involved and I have instigated the necessary
21 post-incident procedures.

22 "'The investigation of deaths in Scotland is the

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1 responsibility of Crown Office and Procurator Fiscal
2 Service, who have instructed the Police Investigations &
3 Review Commissioner to lead on this enquiry. The
4 circumstances into the death will be fully explored and
5 reported to the Crown Office in early course'."

6 So that appears to be a draft, and if we scroll up
7 to the parts that are immediately above that text, we
8 can see that this is a draft from a Kate Finlay in
9 Police Scotland, and she is seeking approval of the
10 text. If we scroll up a little bit further, we will see
11 that her email has been sent to media relations, and we
12 can see a little bit further up that that appears to
13 have gone to Media Relations within the Crown Office who
14 acknowledged the email and say:

15 "We'll get back to you asap."

16 Then if we scroll up further, the response reads:

17 "Hi Kate,

18 "As discussed the statement as drafted contains too
19 much detail. We are content for it to be used
20 internally but not publicly.

21 "However, we are content for the following part of
22 the quote to be used ...

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1 "''This is a tragic set of circumstances and my
2 condolences go to the man's family. Police Scotland is
3 co-operating with PIRC' or something of that nature.

4 "We are also content for you to confirm in notes to
5 editors etc that an officer was not stabbed."

6 So I appreciate you may not have seen this before
7 but does this appear to be a draft media release
8 prepared internally by someone from within
9 Police Scotland and sent to the Crown Office for
10 approval, and the Crown Office have said that it's too
11 detailed, that it can be used internally but not
12 publicly, and they've highlighted one particular part
13 that they're content should remain within the
14 press release. Does that appear to be what has happened
15 there?

16 A. It does, as you say. I've not seen that before but yes,
17 it looks like that's the content of that exchange.

18 Q. Let me show you something that you will have seen before
19 PS02795. So the email that we've just read, that email
20 trail concludes at 7 minutes past 4 o'clock in the
21 afternoon. Sorry, I beg your pardon. 02793. I'm so
22 sorry.

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1 (Pause)

2 This we see has been sent by Media Edinburgh, it's
3 difficult to tell without a full email address but it
4 certainly appears that the previous draft was sent to
5 a Media Edinburgh address that appears to be within the
6 Crown Office, and on this occasion they're the sender
7 and this has been sent to you, and it reads:

8 "Death in police custody, Kirkcaldy.

9 "Statement from Police Investigations & Review
10 Commissioner.

11 "A PIRC spokeswoman said 'The Crown Office and
12 Procurator Fiscal Service has directed the Police
13 Investigations & Review Commissioner to investigate
14 circumstances surrounding the death of a 31-year old
15 male on 3 May 2015 in the Kirkcaldy area who had been
16 detained by the police shortly before his death.

17 A report on the PIRC's findings will be submitted to the
18 COPFS in due course. As this is a live investigation it
19 would be inappropriate to comment further at this
20 time'."

21 Then statement from Police Scotland:

22 "Fife Divisional Commander Chief Superintendent

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1 Garry McEwan said 'This is a tragic set of circumstances
2 and my condolences go to the man's family. The
3 investigation of deaths in Scotland is the
4 responsibility of Crown Office and Procurator Fiscal
5 Service, who have instructed the Police Investigations &
6 Review Commissioner to lead on the enquiry.

7 "ENDS."

8 Then a note for guidance:

9 "While there was injury to a female officer, she did
10 not suffer a stab wound."

11 So this appears to have been sent to you on 3 May.
12 Do you recall receiving this?

13 A. No, I actually think it looks like it's been sent from
14 me, just if you go back up to the top.

15 Q. Oh yes.

16 A. I think it's from --

17 Q. That's right, that's my mistake.

18 A. But in answer to your question, no, I don't recollect
19 that at all, I'm sorry.

20 Q. Okay.

21 So this is something you have sent to the Media
22 Edinburgh address which -- if we look at this alongside

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1 the email chain that we looked at a moment ago --
2 appears to be the Crown Office address, and the text for
3 Police Scotland here is very similar to the text that
4 was approved by the Crown Office in the chain that we
5 read earlier.

6 So this perhaps has the hallmarks of being the final
7 release, but can you assist us with that at this
8 distance?

9 A. Sadly not. I really don't remember sending that, if I'm
10 going to be honest.

11 Q. All right.

12 You also said earlier in your evidence that you were
13 keen to have words that could be circulated internally
14 amongst officers and we saw, when we looked at the
15 previous email chain, that the Crown Office had said:
16 no, this is too detailed to go into the public domain
17 but could be used internally.

18 Do you know whether a form of words such as those
19 that we saw in the previous email was perhaps circulated
20 internally to officers?

21 A. I don't know about what went out internally to staff.
22 It would -- there would be a record of that if it did.

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1 What I'd said previously is that I was looking for
2 a form of words for elected members, so that initial
3 contact that I had --

4 Q. Yes.

5 A. -- you know, as far as I can recollect, it was something
6 that went to Crown for approval, you know, to make sure
7 that what I said, you know, was okay to be released.
8 Ordinarily, you know, if it's out in the public domain,
9 ie via the media, I would probably just reflect more or
10 less what was in that media statement. But I do have
11 recollections that there was PIRC approval for elected
12 members and it may or it would have coincided very, very
13 closely to what went out in the media.

14 Q. Perhaps I can help you with that. Can we have on
15 screen, please, PS05872. Now, this is a document which
16 is undated and it's not clear whether it's a draft or
17 a final document, but it is headed up "Briefing note for
18 locally elected members". Let's have a look at this:

19 "Following an incident on Hayfield Road, Kirkcaldy
20 yesterday morning, Sunday 3 May 2015, resulting in the
21 death of a 31-year old male and injury to a female
22 officer, COPFS [Crown Office and Procurator Fiscal

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1 Service] have instructed the PIRC [Police Investigations
2 & Review Commissioner] to lead on the investigation.
3 The officer was released after treatment at the
4 Victoria Hospital, Kirkcaldy.

5 "Following the events, there will be a notable
6 policing presence in the areas affected to provide
7 community reassurance.

8 "We would welcome your assistance in notifying us of
9 any community tensions or concerns notified to you.

10 "Although family are aware of the incident we are
11 not releasing the details of the male involved at this
12 time and support and information is being provided to
13 the family."

14 So do you remember this?

15 A. That will be what I was referring to.

16 Q. That will be --

17 A. Yeah.

18 Q. -- what you were referring to earlier. So this is the
19 form of words that was approved for briefing the locally
20 elected members?

21 A. I think so, yeah, but generally that's what I expect --
22 what I generally recall with that conversation.

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1 Q. And what are your views as to the level of detail
2 provided in this briefing note? Do you consider it was
3 sufficient for their purposes, sufficient to alleviate
4 the concerns and the frustrations that they had brought
5 to your door?

6 A. I think at that point, that was on 3 May, so that was
7 approved at that point. So for my purposes, that's what
8 was generally going out in the media. I felt for ...
9 those ... purposes at that point that it was sufficient.

10 Q. Okay.

11 A. Clearly we moved on from there.

12 Q. So this was on 3 May --

13 A. Yeah.

14 Q. -- and the concerns were a few days later.

15 A. Yeah.

16 Q. And we looked at those concerns, as reflected in the
17 minutes earlier on.

18 Can we return to the community impact assessment,
19 please. Can we go to page 17. We can see an update
20 from the Community Impact and Reassurance Group there at
21 2.30 on 27 May. If you stop there, please, the second
22 paragraph beneath that heading says:

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1 "DI Wilson said that the PIRC had been unable to
2 establish the religion of the deceased."

3 This is now 27 May and the update is that the PIRC
4 had been unable to establish the religion of the
5 deceased. Do you recall this at all?

6 A. No. It does confirm my recollection, though, that we
7 were -- you know, I was constantly trying to establish
8 that.

9 Q. We can move on to page 19, and we see that this is
10 an update following the meeting with lay advisers on
11 4 June, and if we go to the very bottom paragraph on
12 that page:

13 "Albeit the religion of the deceased and his family
14 is known, the exact denomination is unknown. Azmet said
15 that he would contact the Imam from the mosque to
16 establish this, so that the police had a further
17 understanding of denomination acustom."

18 So we're now into 4 June, that's a full month after
19 Sheku Bayoh's death, and it appears at this point in
20 time that you still do not have all of the information
21 that you were looking to, in terms of Mr Bayoh's faith
22 and that of his family. Is that correct?

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1 A. Yeah, that is correct.

2 Q. Can we go to page 21. At the very bottom there is
3 an update from a meeting with lay advisers on the 16th,
4 and you can see at the very bottom there:

5 "Neither adviser believed that at this stage there
6 was any need to reschedule any further meetings."

7 That brought their involvement, it seems, to
8 a conclusion, although beyond that -- there are just
9 a few pages left within the community impact
10 assessment -- we see a further update from the Community
11 Impact and Reassurance Group on 26 June, and there are
12 some details of discussions with politicians. There
13 don't seem to be any further records of meetings with
14 lay advisers, or indeed with elected members, or for
15 that matter with the Community Impact and Reassurance
16 Group.

17 A. I think there were, but not -- I wasn't involved with
18 them.

19 Q. I see.

20 A. I think, if you go forward, there's meetings right up
21 until 2 September.

22 Q. 2 September?

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1 A. Just -- yeah, I've got the -- I wasn't in post then,
2 so ...

3 Q. Oh, I see, yes. You're quite right. Go to page 23,
4 please. Notwithstanding what was said at the last
5 meeting by the lay advisers, we see at the very bottom
6 of page 23 that there was a further meeting with the lay
7 advisers, 2 September.

8 You said you weren't in post by that point in time?

9 A. No, I'd moved posts, I was no longer working in Fife at
10 that point.

11 Q. I see, all right. So at what point did your involvement
12 in the community impact assessment and related work come
13 to a conclusion?

14 A. When I moved post.

15 Q. Yes.

16 A. June or July. July, possibly, that year.

17 Q. Okay.

18 So you were involved, then, with the lay advisers
19 and the elected members and the Community Impact and
20 Reassurance Group between the May and June or July?

21 A. Yes.

22 Q. How helpful did you find the input of these external

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1 advisers, the lay advisers, the elected members to be?

2 A. I felt they did the very best they could within,
3 you know, a very difficult operating environment,
4 because of what we could provide them. I found,
5 you know, their general advice, you know, helpful.
6 Helpful to, you know, test our thinking, you know, just
7 in terms of they came forward with "People are asking
8 about the independence of the PIRC, would it be
9 beneficial if something could go out?" You know, these
10 are all reasonable, you know, things to ask and bring
11 into the conversation.

12 So I found their advice helpful, but they were
13 limited, I absolutely accept they were limited in what
14 they could provide, and maybe what they wanted to
15 provide and help us with.

16 Q. Neither of the lay advisers appointed were black or
17 African. Did that concern you at all in terms of their
18 lived experience and what they were able to bring to you
19 in terms of advice and guidance?

20 A. It didn't concern me, because they were coming in as
21 independent lay advisers, and that's -- that was the
22 role we were asking them to perform. So it was,

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1 you know, I was -- the independence for me was the
2 important part.

3 Q. Looking back now, what do you think might have made
4 their job a little easier?

5 A. Information.

6 Q. Information?

7 A. And information about the family in particular and,
8 you know, the events so we could -- you know, so they
9 could be properly informed and, you know, fully bring
10 all the information and ability that they had. They
11 told me they felt curtailed, and I can understand why.

12 Q. I'd like to look very, very briefly at two documents
13 related to the community impact assessment. The first
14 is PS06481. It's a diversity and engagement strategy.
15 We see here the front page which confirms that it
16 relates to Operation Birnie, which I think is the
17 codename for the investigation following the death of
18 Mr Bayoh.

19 Can we go to -- let's just look through this
20 document quickly, please. If we move on to the second
21 page, there's a little introduction, and the first
22 paragraph of that introduction again states that:

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1 " ... at this stage, the ethnicity, faith and
2 cultural background of Mr Bayoh has not been confirmed.
3 The enquiry should be conducted with the diversity and
4 cultural needs of Mr Bayoh's immediate and extended
5 family and wider community at the heart of all that is
6 done."

7 The aims are set out. There is then a definition of
8 a critical incident at the bottom of the page, and you
9 explained to us yesterday your understanding of critical
10 incident, and it's defined here as:

11 "Any incident where the effectiveness of the police
12 response is likely to have a significant impact on the
13 victim, the family and/or the community."

14 A. Yeah.

15 Q. Moving on to the third page, "Consultation and
16 engagement, independent advice", it records that:

17 "Independent advice at both critical and other
18 police incidents is well documented as being extremely
19 valuable and has become a moral duty developed by police
20 forces nationally since the MacPherson report into the
21 death of Stephen Lawrence in 1993.

22 "As such the use of Police Service of Scotland ...

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1 lay advisers should be considered at regular stages of
2 Operation Birnie. Their role includes offering advice
3 and assistance from a lay perspective as well as
4 challenging and critiquing decisions and proposed
5 actions of the operation and acting as a 'critical
6 friend'. Once the ethnicity, faith, and other cultural
7 needs of the deceased and his family have been
8 confirmed, consideration should be given to ensuring
9 that the appropriate adviser is sought."

10 Let's start with that final sense:

11 "Once the ethnicity, faith, and other cultural needs
12 of the deceased and his family have been confirmed,
13 consideration should be given to ensuring that the
14 appropriate adviser is sought."

15 Going by the minutes of the various meetings you had
16 with elected members and lay advisers and the CIRG, my
17 understanding -- and you'll correct me if I'm wrong --
18 is that throughout the period of time that you were
19 involved in community impact work, you didn't ever
20 receive confirmation as to at least the denomination of
21 Mr Bayoh's faith; is that right?

22 A. Yeah, I didn't have any information.

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1 Q. No information.

2 And looking again at the top part of that paragraph,
3 where there's a discussion of the role of lay advisers:

4 "Their role includes offering advice and assistance
5 from a lay perspective as well as challenging and
6 critiquing decisions and proposed actions of the
7 operation and acting as a 'critical friend'."

8 Is that a role that the lay advisers were able to
9 fulfil in connection with this operation?

10 A. I think so.

11 Q. And to what extent were they able to challenge and
12 critique decisions and actions? Were they sighted on
13 decisions and actions? You explained that there was
14 information that wasn't available to them, but were they
15 involved in decision-making? Were they critiquing your
16 decision-making in some way?

17 A. I suppose if we reflect back to that point round about,
18 you know, information and our -- what I was reflecting
19 back to them was the fact that we weren't going out in
20 the public domain with any information. They clearly
21 felt that, and questioned whether that was -- they
22 understood why because I clearly explained it to them,

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1 but they were -- I would have said, you know, that
2 critical friend role was then, you know, informing us of
3 how that then could be perceived, and that lack of
4 transparency. That was what they were bringing to it.

I suppose in a normal investigation the lay advice, if it sat with an investigation in Police Scotland then, you know, would be far more aware of the, you know, the investigation itself to then inform the decisions, as you've mentioned, because that wasn't how this investigation was being managed, ie by us. It was the more limitations on the information made that full role quite difficult.

Q. So are you saying that it's difficult to be a critical friend if you're not fully informed?

15 A. Yeah, you can only be critical in terms of the
16 information that you're provided, and if you're not
17 provided that much information you're limited in,
18 you know, how you can, as a friend, you know, critically
19 analyse what it is that's happening.

20 Q. Can we move on to the fourth page of this document,
21 please.

22 (Pause)

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1 Is this the fourth page, sorry? It might be the
2 fifth page. My apologies. There we are.

3 "Specific community impact". There's a discussion
4 here of the local neighbourhood community, then the
5 Islamic community:

6 "The public and press interest may make links with
7 Bayoh's perceived ethnicity or religion, which in turn
8 has the potential to raise concerns within the
9 community. Consideration should be given to having
10 reassurance measures put in place specific to the
11 Islamic community and any place of worship in which the
12 subject was associated. Once the ethnicity and faith of
13 Bayoh and his family is confirmed, this should be
14 revisited and any interfaith tensions examined."

15 So again another reference to the need to confirm
16 his ethnicity and faith.

17 If we can look below that to "Police Community", and
18 you mentioned yesterday in your evidence seeing the
19 police as an independent unit, an independent community:

20 "Police Service of Scotland can be classed as
21 a community in itself and as such its staff should be
22 taken into consideration during the progress of this

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1 strategy. It is important therefore that the relevant
2 staff associations are not only consulted but are
3 central to this strategy to ensure any officer or police
4 staff member is not adversely affected. Both SEMPER
5 Scotland and the Muslim Police Association will be
6 an integral part of this strategy as it develops. Local
7 managers should identify officers in need of TRiM
8 assessment and progress this expediently."

9 I'm wondering whether SEMPER Scotland and the Muslim
10 Police Association were contacted and asked if they
11 could be an integral part of the strategy and support
12 the police community in the aftermath of this incident?

13 A. They weren't by me. That's a national document that's
14 been compiled by what was Safer Communities.

15 Q. Right.

16 A. So the -- if they were, then they would have been
17 engaged by Safer Communities.

18 Q. All right. That wasn't a task that fell to you?

19 A. No.

20 Q. Can we look now at PS05363, which is a document headed
21 "Operation Birnie, diversity considerations and
22 community impact."

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1 (Pause)

2 Is this a document that you've seen before?

3 A. I don't believe so, no.

4 Q. Can you say whether it's a national document like the
5 last one, or something --

6 A. I certainly don't recognise it as being a local, locally
7 held document.

8 Q. If we have a brief look at it, it's got much in common
9 with the document we looked at a moment ago. There's
10 an introduction that gives some background information,
11 the aims of the Gold Groups are set out.

12 On to the second page, "Critical incident" is
13 described, "Diversity considerations", and then at the
14 bottom "Cultural awareness":

15 "At this time it is believed that although the
16 deceased has been identified as of the Muslim faith, it
17 is thought that he does not practice his religion but
18 that other members of the immediate family may be more
19 devout. Initial advice has been given in relation to
20 cultural awareness."

21 So this document appears to suggest that Mr Bayoh
22 was Muslim but perhaps not practising, but I understand

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1 your evidence to be that that was never confirmed to you
2 in terms?

3 A. Not by the family, and I haven't seen that document --

4 Q. You haven't seen that before?

5 A. No.

6 Q. There's a final document I would like to draw your
7 attention to. I don't know whether it would be on the
8 playlist. If not, I can tell you the relevant -- read
9 out the relevant part. It's the forensic strategy
10 document. Possibly not.

11 PS01298. So this is a document -- we've heard much
12 about this from Pat Campbell in recent days, and this is
13 a document which was prepared on 3 May in advance of
14 a meeting at about 4.45 in the afternoon.

15 Now, I don't think we have it, and that doesn't
16 matter -- you won't have seen it before, I don't think,
17 in any event -- but this is a document which I suppose
18 has been prepared by the investigation side of
19 Operation Birnie and, as I say, it was prepared on
20 3 May, and it records:

21 "Due to the religion of the deceased being
22 established as Muslim, this was to be considered in the

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1 recovery phase and highlighted ... COPFS."

2 So it certainly appears from the face of this
3 document that the investigation side of the incident, or
4 Operation Birnie, had established by late afternoon on
5 3 May that Mr Bayoh was Muslim. But, if I understand
6 your evidence correctly, that information was never
7 conveyed to you officially or definitively from PIRC via
8 the MIT, in spite of a number of requests. Is that your
9 position?

10 A. Yeah.

11 Q. We'll move away from the community impact assessment
12 now, and in conclusion I want to ask you just a few
13 questions about training.

14 Now, Police Scotland have helpfully provided your
15 full training record. You might not have had the chance
16 to pay it much attention but it's there and, if you
17 would find it helpful to do so, please do look at it.

18 I wonder if I can take you back to something you
19 said in your Inquiry statement, paragraph 54, because
20 I'm particularly interested in any training that you had
21 undergone that you found to be useful in the role that
22 you played in the aftermath of Mr Bayoh's death, so

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1 equality and diversity training, anything of that sort.

2 You were asked in paragraph 54 about learning
3 lessons, and you said:

4 "I'm asked if I'm aware of any training run by
5 Police Scotland or sharing of information within
6 Police Scotland in terms of learning lessons from other
7 police forces. Yes, that's quite common and often comes
8 to light from reviews, inspections or incidents that
9 have occurred in other areas. I have attended many
10 inputs and courses over the years where external
11 speakers from other agencies or police forces have
12 shared their experience of dealing with crimes and
13 investigations. More often than not, this includes
14 lessons learned."

15 I'm interested to know whether you ever attended
16 a lessons learned input following a death in custody?

17 A. (Pause). Not that I can recall specifically.

18 Q. Or the death of a person from a black or ethnic minority
19 background?

20 A. So in terms of lessons learned, I would include it in
21 Simplicity, that's within the training record that I've
22 got in front of me. So that's that critical incident

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1 management for -- that's been run for a number of years
2 across Police Scotland which deals with critical
3 incidents, and it also picks up aspects from
4 Stephen Lawrence and from Simon San Inquiries, so that
5 was very much the focus of that bit of training.

6 Q. I was going to ask you actually if you recalled the
7 publication of Lord MacPherson's report in 1999
8 following his investigation into the racist murder of
9 Stephen Lawrence? Because you have such length of
10 service --

11 A. Yeah.

12 Q. -- that you'd have been in service at the time, and do
13 you remember a lessons learned or training input
14 following the publication of that report?

15 A. Yeah, I mean, I think going right back to, you know, the
16 earlier part of my service in Fife Constabulary, there
17 was training post the release of the MacPherson report
18 in the early 2000s, and that was on -- all staff were
19 trained in equality and diversity. I think in Fife it
20 was a two-day course that everybody attended,
21 I certainly did, and I suppose the -- you know, I've had
22 other training in between times on equality and

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1 diversity as well, not necessarily always lessons
2 learned, sometimes just awareness --

3 Q. Certainly what you say, and let's go back to your
4 statement for a moment and then I'll invite your
5 comment, but at paragraph 55 you're asked about
6 Police Scotland's training on racial awareness and
7 equality and diversity:

8 "The amount of training will vary depending on
9 length of service, some would have more exposure than
10 others ..."

11 And you go on to say that equality and diversity is
12 threaded through the syllabus in many courses you have
13 been on, for example detective training:

14 "This has included inputs and live play exercises
15 specifically focused on investigations where equality
16 and diversity issues exist. Training for new recruits
17 at Scottish Police College includes racial awareness and
18 equality, diversity and inclusion. They are provided
19 with training from the very outset."

20 So in terms of the role that you were performing on
21 3 May 2015 and in the days and weeks that followed, what
22 training had you had that you felt equipped you well to

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1 perform your function on that day? Can you point to any
2 particular experiences or inputs or courses that you had
3 attended that you felt gave you the skillset that you
4 needed to carry out your role?

5 A. Numerous over the years. So clearly all the equality
6 and diversity, but I was a senior investigating officer
7 for a number of years, so the understanding of
8 investigations -- albeit that wasn't my role -- clearly
9 helps the detective training. I'm a sexual offences
10 liaison officer, that has aspects of, you know, equality
11 and diversity within it in terms of dealing with victims
12 of sexual crime. The detective officer death
13 investigation is clearly a fundamental part of that
14 role. As a senior investigating officer, I'm overseeing
15 more complex deaths as well as serious crime
16 investigations, so equalities is threaded right through
17 that, you know, EDI all the way through these pieces of
18 training, so ...

19 Q. Thank you. Can you bear with me just a second, please?

20 A. Of course, yeah.

21 (Pause)

22 MS THOMSON: I have no further questions for you, thank you.

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1 LORD BRACADALE: Are there any Rule 9 applications?

2 Ms Mitchell and ... I wonder if you would withdraw to
3 the witness room, please, superintendent.

4 (In the absence of the witness)

5 Rule 9 Application by MS MITCHELL

6 LORD BRACADEL: Ms Mitchell.

7 MS MITCHELL: Yes, the first issue I'd like to raise is
8 a matter which was missing from the witness's statement,
9 when she was asked about whether or not there was impact
0 and -- sorry, I'll start again. Whether or not, because
1 of the high profile nature of the enquiry, there were
2 features that made it high profile and would have
3 significant community impact. And she responded in her
4 Inquiry -- today, yesterday I think it was, saying:

15 "Answer: Yeah, it's clearly not in there but I knew
16 because the Chief Super had mentioned that the deceased
17 was black ..."

18 [Day 50, page 172, line 2]

19 What I would like to explore with this witness is:
20 why, if that was the case, that one of the issues was
21 the deceased was black, why wasn't that part of her
22 statement? Why didn't she set that out in the

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1 reasoning?

2 And the reasoning for that is just to test why
3 something like that wouldn't be in there if it was
4 relevant? Was there any reluctance, for example, of the
5 witness to put that in as a reason and, if so, why?

6 That's the first issue.

7 A number of issues then clump around what the family
8 was told in the meeting with Garry McEwan and
9 Nicola Shepherd. Firstly, on the issue of batons.

10 Earlier today at [draft] 60/14 she was asked:

11 "Question: Did you know at that point in time that
12 Mr Bayoh had been struck with batons?

13 "Answer: Not sure if I did.

14 "Question: Was that information shared with the
15 family?

16 "Answer: It's not documented there, no.

17 "Question: That note documents batons being
18 withdrawn, but there's no reference to baton strike."

19 [Day 51, page 65, line 22]

20 Now, what I would like to do is take this witness to
21 the two Gold Group meetings which she'd previously
22 attended which set out the background as then it was

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1 known, albeit sort of incorrectly, about the involvement
2 of batons and the police.

3 The next thing relates to the post-mortem. She was
4 asked, and this is at [draft] 76:

5 "Question: During this meeting were there any
6 discussions about the upcoming post-mortem?

7 "Answer: I don't recall them, and I haven't taken
8 notes of that, is probably what I would say.

9 "Question: So you don't recall any discussions
10 around post-mortem?

11 "Answer: I don't now.

12 "Question: Do you recall there being any discussion
13 about identification of the body?

14 "Answer: Not now, I don't."

15 [Day 51, page 82, line 8]

16 What I would like to do is take this witness to the
17 Gold Group meetings on 3 May at 2015 hours, which was
18 essentially the report back of Garry McEwan as to what
19 was said at the meeting, which makes it clear that the
20 family -- indeed the word was used -- craved reassurance
21 about the post-mortem.

22 Finally in relation to the post-mortem, one of the

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1 last documents we looked at, PS09169, said on its front
2 page, "I disclosed the second PM to advisers, requested
3 not to further disclose", and then I can't make it out,
4 and what I would like to ask this witness is: on what
5 basis was the post-mortem disclosed and why was it done,
6 from a policing perspective, with lay representatives?

7 Moving then on to the issue of the machete, the
8 Inquiry will know that clearly this is a matter of
9 contention as to what the family were told on the day.
10 This witness says in her statement:

11 "I wish to state that the only weapon I have ever
12 heard mentioned in relation to Mr Bayoh's death is
13 a knife, no other weapon specific to this incident."

14 What I would like to do is go though with this
15 witness her attendance at Kirkcaldy Police Station, the
16 briefing that she was given by Garry McEwan when she
17 arrived, and in doing so show that Garry McEwan at the
18 same time was briefing other people, including
19 Conrad Trickett and the ACC, that in fact there was
20 a male with a machete in the street and -- even though
21 this is of course entirely incorrect -- briefing them
22 "Police attended male strikes one with a machete", and

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1 to allow the witness to see if that is able to jog her
2 memory. I should say also Conrad Trickett confirmed in
3 his evidence that Chief Superintendent Garry McEwan gave
4 him that information.

5 Then I would like to ask about community
6 reassurance, in particular the issue about terrorism
7 related -- the question of whether or not the incident
8 was terrorism related.

9 The witness has made it clear that this was
10 something that she was being asked not only by the
11 people that she was meeting, the lay advisers, but also
12 by the police. She gave that as one of the reasons in
13 her answers. Having read back her answer,
14 unfortunately -- and it starts at [draft] 114/11 -- her
15 answer does not seem clear, other than -- her answer
16 doesn't seem clear as to why she did not take active
17 steps, on hearing those questions they did ask, to do
18 something.

19 The answer that she's given is because PIRC were in
20 charge, but my question then for this witness would be:
21 okay, PIRC was in charge; why wasn't there some
22 communication, official communication with PIRC asking

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1 them what the situation was?

2 The issue about whether or not this was a terrorist
3 related incident, and given the timing around which it
4 happened, was clearly a matter of significant importance
5 to the public and to the police, and as a result of that
6 I think that matter should be explored.

7 And just for sake of reference, it was earlier at
8 [draft] 115, line 10, where she said:

9 "Answer: Again, the point with CT, I think you
10 already highlighted it, it came through the staff as
11 well so it wasn't a singular group that were asking that
12 question and ultimately I wasn't in a position to answer
13 that, but I think it was becoming widely known in the
14 organisation that it had been asked, both with staff and
15 elected members, clearly."

16 [Day 51, page 124, line 15]

17 Moving then on, I would like to ask this witness
18 about lay advisers. The Inquiry has heard that she
19 doubted that questions had been asked of her by the lay
20 adviser, and there is an entry at PS03139, at point 7,
21 which says:

22 "CIA review (CI Shepherd)."

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1 Then it says:

2 "On 4/5/2015 [so that would be the next day] after
3 brief of lay adviser and elected representatives,
4 an agreement of forms of words has to be signed for
5 Police Scotland."

6 So that would tend to suggest that the person that
7 did speak to the lay adviser was this witness, and to
8 allow her the opportunity to consider that.

9 Finally moving on to the issue of race, although
10 there are one or two different things under that
11 heading. My learned friend took this witness to race
12 training, and what I would like to ask this witness is
13 whether or not any of the information that was given to
14 her by the person that was giving out advice on minority
15 groups and whether or not the information that was given
16 to her that day was already known to her.

17 We have a community, I suppose, the Muslim
18 community, the second largest in Scotland after the
19 Christian community, and these are things which are very
20 generic in their terms, and it would be interesting to
21 see, when we're probing whether or not this witness does
22 have an understanding of these communities, which she

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1 highlighted at the end was important to have, in her
2 role as SIO, whether or not she knew these sorts of
3 things in any event. So it was to ask her that.

4 One slight clarification, and I think it's just
5 clearing up the way she said it, at [draft] page 153,
6 line 4, it was put to the witness:

7 "Question: So this document appears to suggest that
8 Mr Bayoh was Muslim but perhaps not practising, but
9 I understand your evidence to be that that was never
10 confirmed to you in terms?

11 "Answer: Not by the family, and I haven't seen that
12 document --

13 [Day 51, page 165, line 18]

14 So what I would just like to make clear was that the
15 family was in fact not asked whether or not Mr Bayoh was
16 practising.

17 Those are my questions.

18 LORD BRACADEL: Just going back to the second last one, I'm
19 not sure I understood the point.

20 MS MITCHELL: Oh, sorry. Is it the race training one?

21 LORD BRACADEL: Yes, it's the race training one. Can you
22 just tell me a bit more about that?

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1 MS MITCHELL: Yes. What this witness has said -- at the end
2 of her evidence, in fact, if we scroll back up -- she
3 was asked whether or not she's been able to put her race
4 training, equality, diversity into practice and how that
5 works; and she explained it was important to her in her
6 various roles that she's taken and why she needs to know
7 about that as an SIO investigating crime, dealing with
8 trafficking victims, et cetera. And what I would like
9 to explore with this witness were the advice that she
10 was given by -- I can't remember the lady's surname,
11 Gillian ...

12 LORD BRACADEL: Boulton.

13 MS MITCHELL: Boulton, thank you. Gillian Boulton. Was
14 that advice that she was given, this very basic generic
15 advice in relation to Muslims, something that was
16 already known to her at that stage in her career? Just
17 to test to see what the level of training had with this
18 witness.

19 LORD BRACADEL: Thank you.

20 Now, you can return to your seat, please,
21 Ms Mitchell.

22 MS MITCHELL: I'm obliged.

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1 LORD BRACADEL: Mr Henry.

2 Rule 9 Application by MR HENRY

3 LORD BRACADEL: Yes.

4 MR HENRY: Thank you, sir. There are two issues which
5 I would wish to raise with the witness.

6 The first refers to the minutes of the lay advisers
7 subgroup meeting on 22 May 2015, which is document
8 PS08934. Sir, there is an entry on the second page of
9 that document, at the second full paragraph, where it's
10 stated that:

11 "Mr Sayed, one of the lay advisers, had gone on to
12 say that he had links to the African community in
13 Glasgow, and that certain sections of that community
14 were concerned that the police had done something
15 wrong."

16 So I would wish to ask the witness what she
17 understood the concerns of the African community to be
18 and what steps, if any, were taken to address those
19 concerns of that community.

20 The second matter that I would wish to address, sir,
21 is: more generally, there has been a great deal of
22 evidence before the Inquiry from this witness and to

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1 this witness in relation to steps taken to address
2 concerns and the impact on the Muslim or Islamic
3 community.

4 I would wish to ask questions of this witness, sir,
5 about whether she considered that sufficient focus was
6 placed on any concerns that the black or African
7 communities may have, separately to concerns held by the
8 Muslim community; whether she understands whether those
9 communities may have additional or separate concerns
10 about the death of a man following an incident with
11 police; and whether she considers that there was
12 sufficient focus on the matter of race or ethnicity, as
13 opposed to religion, in the equality and diversity
14 considerations.

15 LORD BRACADE: Thank you. Please return to your seat.

16 I'll consider these submissions overnight. If you
17 can bring the witness back in, I'll explain to her
18 she'll need to come back.

19 (In the presence of the witness)

20 LORD BRACADE: Superintendent Shepherd, there may be some
21 further questions for you, which we will deal with
22 tomorrow morning. So if you could return for 10 o'clock

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1 tomorrow morning.

2 (4.11 pm)

3 (The hearing adjourned until 10 am
4 on Friday, 17 March 2023)

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