

Transcript of the Sheku Bayoh Inquiry

Thursday, 16 March 2023

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(10.00 am)

(Proceedings delayed)

(10.05 am)

DETECTIVE SUPERINTENDENT INSPECTOR NICOLA SHEPHERD

(continued)

Questions from MS THOMSON(continued)

LORD BRACADALE: Good morning, Superintendent Shepherd.

THE WITNESS: Good morning.

LORD BRACADALE: Ms Thomson.

MS THOMSON: Good morning, Superintendent.

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

Can we look at your operational police statement, please, PS00643. If we can go to the second page of that statement, where you say at the second paragraph from the top -- sorry, the second page of the statement -- I think I might have a different version, sorry. If we scroll back up a little bit again. There we are. It's the fourth paragraph down on this version:

"At 11.30 hours, same date, I attended Gold Group

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1 meeting chaired by ACC Nicholson, my responsibilities
2 around this incident centred upon police resources,
3 community issues and preparation of a Community Impact
4 Assessment."

5 And that's in line with what you told us yesterday
6 afternoon --

7 A. Yes.

8 Q. -- about your portfolio responsibilities.

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

16 Can we scroll through the minutes, please, until we
17 reach agenda item 6:

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

19 "Allocated to CI Shepherd who was to make local
20 elected members aware and also liaise with Fife Migrant
21 Forum and the independent advisory Service.

22 "Community impact was to be considered including
23 community reassurance."

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

25 Now, yesterday I asked you about the local elected

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1 members, I had mistakenly thought they were elected to
2 membership of a group associated with the police, but
3 you've in fact explained that they're elected by
4 constituents to particular wards.

5 A. That's correct.

6 Q. So, if I understand correctly, they are in effect local
7 councillors?

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

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

11 What was the purpose of making the local councillors
12 aware of the incident?

13 A. Just probably similar to what I spoke about yesterday,
14 so the -- my role was going to be looking at community
15 tensions, you know, community impact, so to allow me to
16 assess that impact and have that, you know, that
17 scanning and monitoring capacity, then one of the means
18 by which I was going to do that was through elected
19 members. So that's how, you know, I did that on
20 a day-to-day basis with any other incident that may
21 happen. So the specific action there is make the
22 elected members aware, because I'm going to rely on them
23 to come back with any information that they hear that we
24 may need to act upon or know about as well.

25 Q. So you would provide them with information about any

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1 significant incident in the hope and anticipation that
2 they would then feed back to you information that was
3 relevant to your monitoring of community tension?

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

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

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

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

11 A. For Kirkcaldy.

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

14 A. That was the action from recollection.

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

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

18 Q. So you would have current contact details for the local
19 councillors and a means of making contact with them for
20 the sharing of information around a significant
21 incident?

22 A. Yeah.

23 Q. Returning to the minutes, there is reference to you
24 liaising with Fife Migrant Forum. Who are the Fife
25 Migrant Forum?

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1 A. So Fife Migrant Forum are a body that clearly represent
2 migrants in Fife, so a mixed representation of
3 ethnicities, nationalities, that obviously exist to
4 support diverse communities in Kirkcaldy. Fife, sorry,
5 apologies.

6 Q. How big is their membership?

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

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

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

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

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

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

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

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

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

22 Q. African?

23 A. I wasn't aware, no.

24 Q. Muslim?

25 A. I wasn't aware, no.

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

2 A. At that point clearly that's the action that's come from
3 gold, so -- and I don't think I engaged them that day,
4 I think that was done through Safer Communities staff.
5 I certainly don't recall speaking to the Fife Migrant
6 Forum or a representative thereof, on that day. So
7 I think that was done by a member of the Safer
8 Communities staff.

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

12 A. I suppose going back to that, the scanning and analysis
13 that I was looking to do to monitor, you know, community
14 impact was reaching out to representatives of our
15 community in Kirkcaldy to help us, you know, be informed
16 as to how that impact was being felt.

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

22 A. Oh, sorry, yeah, I do see it. So the independent
23 advisory group became probably more commonly known as
24 the lay advisory group that was put in place. So that
25 group was made up of representatives from diverse

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1 communities to come and basically engage with, you know,
2 police colleagues, including myself, to bring that
3 knowledge of local communities.

4 Q. There's a lay advisory group made up of individual
5 members from diverse communities. Are they individually
6 known as lay advisers?

7 A. Yes.

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

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

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

12 A. No.

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

15 A. No (Shakes head).

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

18 A. No.

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

21 A. I couldn't say for certain

22 Q. Or African?

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

24 Q. On the lay advisory group.

25 A. Sorry, yeah. Well, I do, because clearly the lay

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1 advisory, you know, members that we involved came from
2 different communities.

3 Q. What communities did they come from?

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

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

14 A. I didn't specifically, no.

15 Q. Or Muslim?

16 A. Not specifically, no.

17 Q. Or African?

18 A. Again, not specifically.

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

23 If we scroll down a little, please:

24 "Lay-community advisers.

25 "Standing operating procedures."

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1 And we see that it was the version that was in force
2 in May of 2015.

3 Have you seen this before, Superintendent?

4 A. From memory, no.

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

9 "Lay/Community Advisers are independent persons who
10 through their backgrounds or employment have
11 a particular knowledge of a community group, but who do
12 not necessarily represent that community. The
13 Lay/Community Advisers are available to advise on all
14 areas of diversity, race, religion, sexual orientation,
15 faith, disability, gender and gender identity.
16 Objectivity, insight and an independent overview are
17 regarded as necessary skills as well as an ability to
18 communicate and relate to a range of people at all
19 levels in society. The advisers are comprised
20 predominantly of external community members, but in some
21 areas a number of Police Officers and members of Police
22 Staff are also available to give advice based on their
23 community backgrounds or personal knowledge.
24 Lay/Community Advisers are available to be utilised at
25 a tactical and operational level, where advice may have

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1 a bearing on an incident/investigation or event."

2 Does that fit with your understanding of the remit
3 of the lay advisory group?

4 A. Yes.

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

6 "Roles and responsibilities.

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

8 "Monitor hate crime.

9 "Provide advice in critical incidents."

10 And as you've explained to us this was a critical
11 incident:

12 "Review Equality Impact Assessments.

13 "Provide advice and review policies and procedures.

14 "Sample complaints against the police."

15 At 3.2 we see examples of when lay or community
16 advisers can be utilised:

17 "Advise on the potential impact of an incident on
18 specific communities."

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

23 "Advise on issues specifically relevant to the
24 individual or community affected.

25 "Advise on any potential impact, adverse or

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1 otherwise, from a proposed course of action by the
2 police."

3 Again, does what you read on the screen today fit
4 with your understanding of the role of the lay advisory
5 group?

6 A. It does, yeah.

7 Q. Had you worked with them before?

8 A. No.

9 Q. Can we return, please, to the minutes from the first
10 Gold Group meeting.

11 (Pause)

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

13 (Pause)

14 PS06491.

15 (Pause)

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

18 (Pause)

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

22 "Community impact was to be considered, including
23 community reassurance."

24 Now, this appears to be an agenda item, and I wonder
25 what discussion there was at that first Gold Group

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- 1 meeting around community impact and community
2 reassurance. Can you help us with that?
- 3 A. My recollection now is pretty limited, so I don't recall
4 much conversation about it, that's not to say there
5 wasn't, but now, no, I'd be struggling to recollect.
- 6 Q. And the final point under item 6 is that:
- 7 "[Redacted] request to be submitted via SCD Internet
8 Investigations re monitoring of social media."
- 9 And I wanted to ask you some questions about that.
- 10 What discussion was there at the Gold Group meeting
11 around monitoring of social media?
- 12 A. I don't recollect now.
- 13 Q. What might be the purpose of monitoring social media?
- 14 A. Probably, as I spoke about yesterday, so it would just
15 be that: what's the information that's, you know, being
16 spoken about this incident that we would need to either
17 know about, monitor and assess to make, you know,
18 an assessment of, does that then mean there's
19 a community impact?
- 20 Q. So it would be another strand or stream of information?
- 21 A. I think that's what that reference is. But without
22 a real recollection of it being discussed on the day.
- 23 Q. Do you recall what social media was to be monitored?
- 24 A. No.
- 25 Q. Whose social media was to be monitored?

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

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

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

7 Q. Would this be information that was, if you like,
8 publicly available rather than private information or
9 for example a private Facebook page?

10 A. Publicly available, yeah.

11 Q. Can you assist us in understanding whose social media
12 accounts were likely going to be the subject of this
13 monitoring?

14 A. Not from that, no.

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

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

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

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

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

4 A. Just because then it would be done in a unified way, as
5 opposed to asking me in particular to go and do it,
6 I wouldn't have access to, you know, to a facility to do
7 that. Our computers are all networked, so they would --
8 that was the action that was given to the Internet
9 Investigations unit.

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

12 A. Yeah.

13 Q. I see, so I think I misread this, I thought that
14 a request had to be made through them for
15 authorisation --

16 A. No, no. No.

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

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

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

22 A. Yeah.

23 Q. In what sort of incidents?

24 A. Most, you know, incidents of -- you know, that I think
25 there's going to be a community impact, and that's not

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1 unusual.

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

9 A. It would be, yeah.

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

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

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

25 A. So Chief Inspector Trickett, Chief Superintendent now

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

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

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

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

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

22 Q. Looking back to the minutes, we have item 9,

23 "Resources", and in brackets:

24 "(DCS Boal/CI Shepherd)."

25 And I want just to ask you, where we see names in

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1 brackets does that suggest that the individuals named
2 gave an input to the meeting or does it suggest that
3 there were perhaps action points for those individuals
4 to take away, possibly both?

5 A. Possibly both, it's quite hard to tell, but yeah, either
6 they're the lead in providing an update or they're
7 probably taking something away from the meeting, would
8 be my suspicion with the wording of that.

9 Q. Thank you. So there's reference here to:

10 "[Redacted] high-viz reassurance patrols."

11 Can you tell us a little bit about those?

12 A. Yeah, I think I mentioned yesterday, so, you know, part
13 of what we would -- or certainly I would put into place
14 in my role would be that reassuring presence. High-vis
15 just means that that would be a uniformed presence. So
16 the ask clearly from gold is -- I don't know what the
17 first bit is, it's redacted there, but it would --
18 reading it back it's to make sure we've got, you know,
19 a presence, a visible presence back on the streets of
20 Kirkcaldy.

21 Q. Beneath that:

22 "Also local staffing to be considered for business
23 continuity."

24 Is this what you explained to us yesterday that you
25 had to effectively replace team 4, who were in the

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1 canteen?

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

3 Q. The next Gold Group wasn't until half past 2, or shortly
4 after half past 2 in the afternoon. I'm interested to
5 know what, if anything, you did in terms of the actions
6 that had been tasked to you between the conclusion of
7 the first Gold Group meeting and your attendance at the
8 next meeting at 2.40?

9 A. I honestly couldn't say what happened in that, unless
10 there's something in my notes that would assist my
11 recollection, but I don't recall specifically what I was
12 doing between both meetings. But yeah, if I was given
13 that action, then it would certainly be -- that's what
14 I would be looking to start instigating.

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

16 A. Possibly, yeah.

17 Q. Your daybook, I think, should be in the folder. Both
18 your notebook and daybook should be in the folder.
19 Let's begin with your notebook. Each page has been
20 given a different reference number, but if we begin with
21 PS18479, just so you can satisfy yourself that this is
22 your notebook.

23 A. Yeah.

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

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

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- 1 Q. The first page that's relevant to 3 May is PS18480.
- 2 A. Yeah, that's correct.
- 3 Q. We see here Sunday 3 May 2015, KDY I think must be
4 Kirkcaldy?
- 5 A. Yeah, it is, yeah.
- 6 Q. "Recall to duty 0930 hours.
7 "Around 1630/1645 contacted by DS Dursley, re issues
8 ongoing with family of deceased."
9 That appears to be the first entry that you've made
10 in your notebook for that day. It relates to events
11 that we'll go on to discuss later today that took place
12 around about 4.30, but there doesn't appear to be
13 anything in your notebook between you being recalled to
14 duty at 9.30 and being contacted by DS Dursley at 4.30.
- 15 A. Yeah.
- 16 Q. So it may be that the notebook doesn't take us any
17 further forward.
- 18 A. If my daybook's in here, it would be more relevant,
19 I think.
- 20 (Pause)
- 21 Q. Is the daybook there Superintendent--
- 22 A. It is, and I'm just trying to find the right day, the
23 actual 3 May. I'm not sure if it is, actually. I don't
24 think it is.
- 25 Q. You don't think it is. All right, we can maybe come

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1 back to that. I'll make sure that we have that
2 available after the break. But for now, there doesn't
3 seem to be an entry in the notebook --

4 A. No.

5 Q. -- that assists us with what happened between the first
6 and second --

7 A. That's right.

8 Q. -- Gold Group meeting, and I appreciate there's some
9 eight years have passed and you say at this distance you
10 don't recall.

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

13 Sorry, that's a handwritten minute. It is in fact
14 PS07268, which is the typewritten version, sorry. My
15 fault. Here we are. So again, if we scroll down the
16 list of attendees we can see 14.40 hours on 3 May and
17 Chief Inspector Shepherd, you're on the list of
18 attendees.

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

20 "Community issues - (Safer
21 Communities/CI Shepherd)."

22 What is Safer Communities, is that an organisation
23 or ...?

24 A. So it's a division in Police Scotland a national
25 division that -- it's PPCW now, Partnerships, Prevention

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1 and Community Wellbeing is what it's titled now, but at
2 that moment in time it was called Safer Communities.

3 Q. Was there somebody from Safer Communities present?

4 A. If you could scroll back up, I'll tell you --

5 Q. We have a -- If we scroll back up we can see the list of
6 the attendees.

7 A. At that point, no.

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

9 "Discussed and Chief Inspector Shepherd to contact
10 elected members, Fife Migrants Forum with regards to the
11 incident, chairperson of Fife Migrants Forum to be
12 invited in to discuss."

13 So this is in very similar terms to the entry in the
14 minutes from the meeting at 11.30, and I'm wondering why
15 the action points from the meeting at 11.30 have been
16 repeated in the meeting at 2.40 in the afternoon?

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

23 Q. The main difference seems to be that there's now
24 a reference to the chairperson of Fife Migrants Forum to
25 be invited in to discuss. Do you recall who the

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1 chairperson of Fife Migrants Forum was at that point in
2 time?

3 A. I don't.

4 Q. Do you recall what their ethnicity was?

5 A. I don't.

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

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

13 Q. Point 7, "CIA review". Is that community impact
14 assessment?

15 A. It is, yeah.

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

17 "Tasked to CI Shepherd who was also to consider
18 security of Kirkcaldy Police Station re media interest
19 and any community tensions."

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

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

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

13 "Maintain business continuity.

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

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

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

23 Q. So she would be dealing with detective officers, you
24 would be dealing with --

25 A. I assume so, because she's been named in the action

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- 1 there.
- 2 Q. Can you explain what action you took after this second
3 Gold Group meeting?
- 4 A. I would hope that, you know, I put those actions into
5 place, I can't recall now exactly the activity, but just
6 due to the passage of time, but certainly I took those
7 actions away so there would be an absolute expectation
8 that I would update back to gold as to what I'd done.
- 9 Q. So far as the chairman of the Fife Migrants Forum is
10 concerned, were they invited in for a chat or
11 a discussion?
- 12 A. Not that day.
- 13 Q. No, but at a later point?
- 14 A. From memory, I think it was the following day, but
15 I couldn't be specific. Again, it would come back,
16 there would be minutes from that meeting, whether it was
17 the following day or the days that preceded -- sorry,
18 followed.
- 19 Q. Do you recall that person, that individual, coming in to
20 Kirkcaldy Police Station for a discussion?
- 21 A. I think it was Kirkcaldy Police Station they came into.
- 22 Q. Or a discussion taking place?
- 23 A. Yeah.
- 24 Q. That would be between yourself and that individual?
- 25 A. Yes.

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

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

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

5 A. Yes, it will be.

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

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

11 "Attendance at the canteen.

12 "I'm asked about when I went to the canteen to speak
13 with the officers on 3 May. I can't recall the time
14 I went down or if it was before or after that first
15 Gold Group meeting. I must have only been there for
16 a few minutes. The purpose of that visit was to check
17 on their welfare, to make sure they'd been asked if
18 there was anything they were going to need. I think by
19 that point, and again I don't know the exact time they'd
20 been there for what I believed would've been a couple of
21 hours by that point, give or take. I think I asked
22 an open question such as, 'Is everybody okay? Does
23 anybody need anything?' I'm asked who was in the
24 canteen at that time, I couldn't categorically say that
25 all of the nine officers were there. I don't think

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1 Nicole Short was there at that point, but I can't be
2 sure about that. I note that I can recall Amanda Givan
3 was present from the Police Federation. I note my PIRC
4 statement dated 18 June 2015 ... at page 2 records
5 'I can recall that Amanda Givan was present from the
6 Police Federation. I'm unsure if anyone else other than
7 the principal police officers, with the exception of
8 Nicole Short, were present.' I can't recall anything
9 beyond that."

10 So you've explained that you had a role in relation
11 to welfare. How did you go about checking on the
12 officers' welfare when you went to see them in the
13 canteen?

14 A. Just as it's probably outlined within that paragraph 13,
15 I think I asked an open question as to how they were and
16 was there anything I could do. It was -- at that point,
17 it was as simple and as basic as that.

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

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

22 Q. Right, I beg your pardon, the PIM wasn't there, wasn't
23 there yet.

24 A. I certainly don't seem to document either at that point
25 and I think when I'm asked the questions and I reflect

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1 back to my PIRC statement of 18 June 2015 I don't
2 reference the PIM being there, so ...

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

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

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

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

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

10 A. Yeah, yeah.

11 Q. I appreciate that your role was a welfare one but as
12 a senior officer yourself do you have any concerns
13 around the officers being together in that way in the
14 canteen, on their return from Hayfield Road?

15 A. At that point, no.

16 Q. We can turn to paragraph 14:

17 "As to what was said, I don't think anything was
18 said by the officers other than an acknowledgement that
19 I'd been down and maybe a thanks for coming down to
20 speak to them. Nobody there asked me for anything or
21 for anybody to be contacted on their behalf.
22 Amanda Givan was there, so I assumed that Amanda would
23 have been asking the same question around whether
24 anybody was needing anything or if anyone wanted someone
25 contacted. Once I asked that, if there was a response,

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1 I don't recall it, and it was such a short conversation
2 that I couldn't specifically tell you what I said but
3 the purpose was purely to check if everyone was okay and
4 if there was anything they needed of me. I don't
5 remember anybody asking for anything and after that
6 couple of minutes of being there, I basically left and
7 didn't return to the canteen."

8 Did you have any further dealings with the officers
9 in the course of that day?

10 A. No.

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

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

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

25 A. I don't.

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

3 A. Yes.

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

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

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

10 When we looked at your notebook a few moments ago
11 there was a reference to officers Mitchell and Parker.
12 If we read through paragraph 26:

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

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

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

23 "Following an incident this morning in the
24 Hayfield Road area of Kirkcaldy, officers from
25 Police Scotland have been attempting to arrest

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

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

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

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

12 "Sunday 3 May 2015 [Kirkcaldy]

13 "Recall to duty 0930 hours.

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

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

21 "Brother-in-law of deceased very vocal about
22 demanding to see [Chief Superintendent] or he would
23 escalate to someone in Glasgow [redacted]? Nfd."

24 Nfd, would that be not further described?

25 A. Yeah.

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1 Q. "Perceived community tensions and overall
2 dissatisfaction with updates provided. ACC Nicholson
3 informed of intention for [Chief Superintendent] and
4 I to attend and speak to the family."

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

15 A. Yes.

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

18 A. Not specifically...

19 Q. You also refer to perceived community tensions. What
20 were the perceived community tensions?

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

23 Q. Oh, I see.

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

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

3 A. Yeah.

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

5 A. Yeah.

6 Q. -- that there are community tensions.

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

9 A. No.

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

12 A. No.

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

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

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

19 "I'm asked about training for police officers to
20 pass a death message. The investigation of death is
21 a core function of a police officer and training begins
22 as early as the initial training on recruitment through
23 the Scottish Police College. That training will not
24 only look at the responsibilities of the police to
25 report death to COPFS, but also how to deliver death

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1 messages and dealing with bereaved families and next of
2 kin compassionately and sensitively. In terms of my
3 training over the years, it commenced back when I joined
4 as a constable and I attended numerous deaths with my
5 tutor who was experienced in dealing with families and
6 passing death messages. I learned a lot from them and
7 also from formal training such as detective training
8 courses, first line manager training which have elements
9 of death investigation and support available to the
10 bereaved. In short, all officers will receive training
11 which will touch on passing death messages."

12 So you mention there the importance of dealing with
13 families compassionately and sensitively. How important
14 in your view and your experience is it to tell the
15 family the truth about what has happened to their loved
16 one?

17 A. It's Fundamental.

18 Q. And what would be the likely impact if the information
19 given by the police to a family was inaccurate or
20 incomplete or misleading?

21 A. It risks losing trust and confidence in our ability to,
22 you know, investigate, potentially, in their eyes, would
23 be my thoughts.

24 Q. Look at paragraph 28:

25 "I'm asked if, in my experience, what preparation

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1 should be done by officers in advance of going to meet
2 with a family to pass a death message. This can vary.
3 Sometimes there can be little time to prepare simply
4 because the nature and circumstances of the death have
5 not allowed it. What I mean by that is we operate now
6 in the knowledge that details of an incident very
7 quickly become known in the public domain and often
8 through social media. We aim to trace next of kin, in
9 person, as quickly as possible to prevent them finding
10 out through other means and this also enables us to
11 support them as quickly as possible. If you consider
12 the case of a fatal road traffic accident which has just
13 occurred, there is a pressing need to identify the
14 deceased and locate their next of kin. The next of kin
15 may not live in the area of the accident and we would
16 need to make that request to another force area. That
17 of course is often reciprocated and in these cases we
18 will have little information about the accident or the
19 deceased and their family. Officers will do what they
20 can to understand the needs of the family before they
21 attend but there are occasions where they will be asked
22 to attend urgently with limited information. There will
23 be occasions where we have more time to check our
24 systems and understand if the family are known to us or
25 the local social work department or GP for example, so

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1 we can better understand the family background. In
2 terms of other preparation, they will rely on their
3 training, experience of dealing with bereaved families
4 and their interpersonal skills to act sympathetically
5 and professionally."

6 You identify there the need to trace next of kin as
7 quickly as possible, living in the modern world there's
8 the constant threat of people finding information out
9 through social media and not from the police, and you
10 alluded to that.

11 Now, we know that Sheku Bayoh -- we heard evidence
12 that Sheku Bayoh died shortly after 9 o'clock in the
13 morning, life was pronounced extinct at 9.04.
14 Collette Bell, his partner, provided a statement to
15 DCs Mitchell and Parker at about 11.12, and in the
16 course of giving that statement she provided contact
17 details for Sheku Bayoh's sister, Kadi Johnson, the next
18 of kin. Kadi Johnson was visited by Detective Constable
19 Mitchell and Detective Constable Parker at about 3.10 in
20 the afternoon, so that was about four hours thereby
21 after contact details for the next of kin had been
22 passed to those officers.

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

24 A. I'm probably not the best person to ask -- to answer
25 that. It would be very much from the information that

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- 1 was known, that wasn't information that was known to me.
- 2 Q. But on the face of it, the information was made
- 3 available to the officers four hours before they
- 4 attended at the Johnston's address. Is that quick in
- 5 any view?
- 6 A. Four hours isn't quick, because the example I gave maybe
- 7 is one where there's an out of force element. Clearly
- 8 I know the family were in Kirkcaldy, so that -- without
- 9 knowing why it took so long, as long as four hours, it's
- 10 difficult to say. But ...
- 11 Q. There has been some evidence that the delay might have
- 12 been due to the unavailability of FLOs.
- 13 A. Okay.
- 14 Q. In your view, would that fit well with there being
- 15 a four-hour delay on the face of things in sharing the
- 16 information with the next of kin?
- 17 A. I'm not -- personally I'm not sure that the requirement
- 18 to have a FLO would necessarily delay that, in my view,
- 19 but again, I'm not probably privy to all the
- 20 information, and I'm certainly not privy to when
- 21 statements were noted.
- 22 Q. We can ask other officers about that.
- 23 A. Okay.
- 24 Q. Can we turn to paragraph 29 of your statement, please.
- 25 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
23 awareness matters. By way of example it was made known
24 to us that given that the family were Muslim, it should
25 be the case that they would expect Mr McEwan to take the

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1 lead in conversations with the family. I also recall
2 that it may be the case that family members would not
3 shake my hand'. I believe that this comment was noted
4 in response to a direct question I was posed by the PIRC
5 about that. If I said that, that's the best I could
6 relay. I don't remember any of the details of the
7 advice we were given now."

8 And your statement then moves on to describe your
9 visit to Mr Bayoh's family.

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

13 A. Again, my understanding, and I'm not the best person to
14 answer that, because up until this point I don't
15 think -- I had never met Gill Boulton before that.
16 I'd -- you know, the Force -- sorry, her title --
17 Equalities Officer, clearly we were a year and a half
18 or just into Police Scotland so that post hadn't existed
19 in a force sense. I understood from certainly that
20 conversation with her that she was going to provide us
21 with relevant information before going to see the
22 family, but other than that I wouldn't be able to
23 elaborate.

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

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- 1 A. I'm sure she would be able to
- 2 Q. -- but what was your understanding of the purpose of this
- 3 meeting? How did you anticipate she may be able to help
- 4 you?
- 5 A. Awareness raising was my understanding, that she was
- 6 going to provide us prior to us attending at the family
- 7 home.
- 8 Q. Do you recall what information you were able to give to
- 9 her in order for her to give you advice based on that
- 10 information?
- 11 A. No, I don't.
- 12 Q. And what sort of advice were you looking for?
- 13 A. Anything that may aid our ability to, you know,
- 14 inform/assist. That's why we were going there, to,
- 15 you know, to do our best to assist. So anything that
- 16 she could do to assist us in, you know, making that as
- 17 productive a visit as possible was the point of that, in
- 18 my view.
- 19 Q. By the time of this meeting, were you aware that
- 20 Sheku Bayoh was black?
- 21 A. Yes.
- 22 Q. Were you aware that his family were from Sierra Leone?
- 23 A. Not as such, no.
- 24 Q. Were you aware that his family were Muslim?
- 25 A. I don't know at what point to be honest and certainly at

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1 that point in the day possibly, but I'm not sure.

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

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

8 Q. Right.

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

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

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

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

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1 "I have been asked to describe my role and
2 responsibilities for when I was Chief Inspector within
3 equality and diversity in National Safer Communities.
4 The role has quite a wide-ranging remit ... At that
5 point in time, we hadn't long been a national force, so
6 we were still bringing together practices and procedures
7 that the various legacy forces undertook within the
8 Safer Communities remit. But the main piece for me was
9 around about community reassurance there was a fair
10 focus on that and that wasn't just in relation to
11 incidents like this, but also things like if there was
12 big marches, or if there was something that was going to
13 be disrupting our community and whether that's
14 a geographical community or a community formed of
15 a protected groups. National Safer Communities would be
16 there to provide that community reassurance. We were
17 also the department that had the links into our
18 community lay advisers into community groups so that we
19 could spread messages from the force or from a local
20 division to make sure that they were going into the
21 heart of communities that needed to hear that
22 information, particularly in relation to any groups who
23 would ordinarily be within harder to reach communities,
24 so there was a fair bit of work around about that."

25 She goes on to talk about going into schools and

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1 that sort of thing. So does that description which has
2 come from her as to her role and responsibilities back
3 in May 2015 fit with your expectations of her role? You
4 say you hadn't worked with her before?

5 A. In a general sense, yeah.

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

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

23 So here she's describing the advisory role and
24 you've explained that she had been briefed by others but
25 was going to come and provide advice to you and to Chief

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1 Inspector McEwan.

2 Can we look, please, at your notebook. It's the
3 page that has the reference PS18481. We see, and again
4 you refer to the timings being quite tight earlier on,
5 we see from the marginal notes that your sit-down with
6 Gill Boulton from equalities was at 17.55. By 18.10 you
7 had been advised by DC Mitchell that the family would
8 welcome a visit from you.

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

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

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

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

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

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1 helped you to understand why the family might not engage
2 with you because you were female, there might be a need
3 to remove your shoes or that you shouldn't offer
4 a handshake unless one were offered to you?

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

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

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

13 Q. This was about raising your awareness --

14 A. Yeah.

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

16 A. Yeah.

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

20 A. Yes.

21 Q. Was there any discussion with Gill Boulton about
22 cultural or even religious requirements around death,
23 around any difficulty that the family might have with
24 the news that there would have to be an autopsy?

25 A. Certainly not that I've recorded and I can't remember

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1 any more than what's recorded there, so ...

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

7 "I have been asked whether I remember any more about
8 the discussions I had and advice given to Garry McEwan
9 prior to his meeting with the Bayoh family. Yes. We
10 always reverted to the Police Scotland diversity
11 handbook. This is a document which gave some very
12 generic and wide-ranging and information about the
13 considerations that we might want to be aware of. I had
14 covered things like going into the house, shaking hands
15 with women, and the fact that women and men might be
16 separate and that wasn't unusual. Also that often in
17 the Muslim faith there are concerns over any post-mortem
18 or interference with a body before its burial or
19 funeral, and also that, there's often a desire to
20 achieve a funeral or a burial or what have you within
21 a fairly swift period of time. Oftentimes where the
22 police are involved in a death, then the sense would be
23 that that might not happen in the way the families might
24 like or expect. It was a worthwhile conversation to
25 have so that when those conversations did unfold in the

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1 coming days, there was at least an awareness that the
2 family may raise either concerns or questions around
3 what the process would be in terms of any post-mortem or
4 in terms of awaiting the release of the body by the
5 Fiscal and things like that so it was just to flag that
6 that the family may well raise concerns, obviously at
7 that point in time I don't think those conversations had
8 been had in any detail to the best of my knowledge and
9 that was the sort of generic advice that I was
10 providing."

11 Does that jog your memory at all, does that assist
12 you? Gill Boulton seems to recall there being some
13 discussion or some advice proffered around cultural and
14 religious sensitivities around death and the need for
15 a post-mortem. Does that help you at all?

16 A. It doesn't jog my memory. Clearly there are points that
17 are similar to what I've described, she's clearly
18 included other points that I don't recollect now,
19 certainly.

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

23 A. I can't explain why they didn't. That's not to say they
24 didn't, you know, they weren't mentioned, I've just not
25 recorded them. But yeah, I can't explain why I've -- if

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1 they were discussed-- why I haven't recorded them.

2 Q. Looking back, are they things that you think perhaps
3 might usefully have been recorded?

4 A. Yes.

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

8 A. Absolutely.

9 Q. And that might have been useful perhaps to have made
10 a note?

11 A. Absolutely, in terms of, you know, crucial
12 considerations for us to consider, you know, the noting
13 of them would have been helpful now that I'm being
14 asked, but absolutely crucial that we were made aware of
15 that.

16 Q. So the notes might be helpful eight years down the
17 line --

18 A. Yes.

19 Q. -- but I suppose at the time the conversation you had
20 with Gill Boulton would have been very fresh in your
21 memory when you went to have that conversation with the
22 family?

23 A. Absolutely, yes.

24 Q. Now, there is a reference at the top of that paragraph,
25 three lines down from the top, to the Police Scotland

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1 diversity handbook. Is that a publication with which
2 you were familiar back in 2015?

3 A. I don't recall.

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

6 A. No.

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

8 A. I'm not sure what -- what it is in terms of, if it's
9 a policy document or if it's something that just sits
10 with the equalities officer, I'm not actually sure what
11 that reference is.

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

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

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

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

22 Q. I see.

23 Can we go back to Gill Boulton's statement, please,
24 that's PIRC -- sorry, it's a different statement, it's
25 her PIRC one -- 00323. This is a statement that

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1 Gill Boulton gave to the PIRC. If we scroll down, we
2 will see the date of that statement, 29 June 2015, and
3 if we can go to the second page, please, and the second
4 paragraph, here we are. So reading from her statement:

5 "I arrived at Kirkcaldy at 1730 hours where I was
6 provided with a further update in relation to the
7 incident and at 1745 hours spoke with
8 Chief Superintendent McEwan and Chief Inspector
9 Nicola Shepherd."

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

15 A. Okay.

16 Q. "I understood that the brother-in-law of the now
17 deceased was known to Mr McEwan in his capacity as a lay
18 adviser within the legacy Fife force and that Mr McEwan
19 was intending to meet with him. At this time the
20 religious and cultural background of the deceased was
21 still unclear but I provided Mr McEwan with some
22 cultural awareness on the basis that it was believed
23 that the wider family were practising Muslims.
24 I provided some generic advice regarding entering
25 a Muslim household and advised that there may be

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1 concerns about the need for a post-mortem and how
2 quickly the body of the deceased may be released back to
3 the family.

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

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

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

11 Q. Do you recall it being discussed in the course of the
12 meeting?

13 A. No.

14 Q. The last line of that paragraph reads:

15 "I also suggested there was a need to engage the
16 services of an independent lay adviser given the
17 previous role of the decease's brother-in-law."

18 Do you recall that suggestion being made by
19 Gill Boulton?

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

21 Q. You don't recall that.

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

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1 A. I don't recall that.

2 Q. It appears from Gill Boulton's statement that the
3 suggestion was made that you engage the services of
4 an independent lay adviser and you mentioned earlier in
5 your evidence that there were two lay advisers, one with
6 a Polish background, one who you said was Muslim,
7 I think they were both men?

8 A. They were.

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

12 Do you recall a discussion with Gary Wilson, he was
13 another lay adviser?

14 A. No.

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

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

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1 paragraph 6 but in paragraph 6 he does explain that he
2 advises principally in relation to issues concerning the
3 LGBT community, and he says that:

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

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

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

19 We'll go through this quite quickly:

20 "In relation to the appointment of a lay adviser,
21 the preferred way would be to find someone that is of
22 that particular protected characteristic or understands
23 that protected characteristic. I am asked if my role
24 was to identify someone more akin to that role. The
25 answer is no. It was not normal or not out of the

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1 ordinary, that the police would sometimes phone up
2 because they couldn't get anybody and they would say,
3 'We've got a case here around disability', for example.
4 I would say to them, ideally you would want a lay
5 adviser that is more of an expert on that particular
6 characteristic than I am, especially if it was a very
7 serious case. If it wasn't a serious case they would
8 sometimes say 'We have tried and we can't get anybody,
9 would you mind just letting us talk you through the
10 case?' So, I think, I said to CI Boulton~..."

11 This is in the context of a conversation they
12 apparently had on 3 May:

13 "... although I could be wrong, I think you should
14 in a case that seems high level and sensitive, get
15 somebody from that particular protected characteristic,
16 because I knew from what they said it was going to be
17 serious, there was going to be repercussions to that.
18 That's my memory, I could be wrong but my memory is that
19 I said to them 'Really I don't think I'm the ideal
20 person for this role because that's not my expertise and
21 if there are sensitivities around I think you should be
22 looking for somebody else'. I think that they went back
23 and presumably got somebody from an ethnic minority
24 background. This is my assumption, I don't know that."

25 That's the background to a conversation that he

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1 thinks he had with you the following day. So let's turn
2 to paragraph 19 now:

3 " In relation to receiving the call the next day from
4 CI Shepherd I'm asked if I recall what this conversation
5 entails. In my memory he, could be she, but in my
6 memory he, explained what had happened. I knew the lay
7 adviser who was a relative to the victim and I knew her.
8 Not well, I knew her from meetings. He said,
9 unfortunately, this is the scenario, so we're having to
10 be really cautious. Obviously, we can't involve the
11 relative who was the lay adviser. He said
12 'Unfortunately it has led to a death. The person -
13 I don't know if he named him at the time - the person
14 concerned unfortunately died because he resisted arrest.
15 There was a knife involved, and suspected drugs'. I'm
16 presuming they didn't know for sure that there were
17 drugs. He then said that 'Unfortunately the person had
18 resisted arrest and had died. That there will obviously
19 be a big fallout from this'. I think he said they're
20 declaring it a 'major incident' or 'critical incident'
21 or whatever the police use for something like that.
22 That was the gist of it. I said to him, as you know, we
23 do work on cross-equality strands or protected
24 characteristic strands, but I think you really need to
25 get more expertise, a lay adviser that has more

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1 expertise. This is limited to what I knew: somebody had
2 resisted arrest and had unfortunately died. I didn't
3 know how, why or where. I didn't know about the knife
4 not being there at the time, which I've read in the
5 press. They didn't tell me. This is my recollection of
6 that conversation."

7 If we just look briefly at paragraph 20:

8 "I am asked if I can recollect if I was called by a
9 man or a woman. Sometimes the sergeant from St Leonards
10 Police Station would phone and make the arrangements, so
11 it could well have been that I've conflated him phoning
12 to make the arrangement for me to speak to her - that
13 could clarify any confusion on my part."

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

17 A. No.

18 Q. It doesn't?

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

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

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

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

9 A. I -- I don't know. I -- I don't remember meeting or
10 speaking to the lay advisers before they arrived on that
11 first meeting that we documented. I'd had no contact
12 with them. So that's probably why I'm, you know, I'm
13 reasonably confident that that wasn't me.

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

15 A. Yeah.

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

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

25 A. Okay.

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1 Q. And I want to look that out for you over the morning
2 break.

3 LORD BRACADALE: This might be a point, convenient point to
4 have the morning break slightly early.

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

7 LORD BRACADALE: I think so. Very well, a 20-minute break.
8 (11.24 am)

9 (A short break)

10 (11.53 am)

11 LORD BRACADALE: Ms Thomson.

12 MS THOMSON: Before the break we were talking about
13 a meeting or a conversation that you may or may not have
14 had on 4 May with a Gary Wilson, and I had wondered
15 whether entries in your notebook, daybook, might be of
16 some assistance one way or the other, and I made
17 enquiries over the break, it appears that we don't have
18 notebook entries that would be on 3 May, however we do
19 have your daybook on 4 May so shall we have a look at
20 that, it's PS09165.

21 A. Sorry, could you repeat the number?

22 Q. Sorry. 09165. It will also come up on the screen, but
23 the hard copy is 09165. I think the best thing would be
24 if I invite you just to cast your eye over this, because
25 there's quite a lot of content and I don't think it will

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1 all necessarily be relevant. If we could perhaps scroll
2 through this slowly, you can see that there are details,
3 I think, of resources on duty on that day, mention of
4 house-to-house, there's a reference there to community
5 officers, but that would be police officers rather than
6 lay advisers?

7 A. Yes, yeah.

8 Q. And a morning meeting. Community impact review, there's
9 a reference to it being there in draft format. Elected
10 members, the advisory group, reference to the local
11 mosque, reassurance patrols, family updates, PIM. Then
12 there is a Gold Group meeting, which we've heard was at
13 12.30 hours on 4 May, notes in relation to that.

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

17 A. I don't think it does.

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

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

22 Q. It's certainly clear that when he gave a statement to
23 a member of the Inquiry team, Gary Wilson thought that
24 DI Shepherd was a man, so there's certainly some degree
25 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
23 I would have come by that information.

24 Q. We see an entry at 7.22:

25 "Emergency button pressed - sounds of disturbance.

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1 Officer injured."

2 And beneath that:

3 "Update Sammi~..."

4 With what looks like a capital S:

5 "... - man on ground~..."

6 What does that entry relate to?

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

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

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

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

19 A. She's known, you know, day-to-day as Sammi, but
20 obviously Samantha is her full name.

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

22 A. Yeah.

23 Q. Thank you.

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

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1 Can we return to your Inquiry statement, please,
2 paragraph 30:

3 "Visit to the Bayoh family.

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

6 Chief Superintendent Garry McEwan took the lead in the
7 meeting. He was doing the majority of the speaking and
8 I was there to support him and understand the family's
9 concerns. My role as the local area commander was to
10 monitor the impact of the incident on the family and
11 community more widely. I recorded details of the
12 discussion with the Bayoh family in my police notebook.
13 I recorded these notes when I returned to Kirkcaldy
14 Police Office after the visit. I did not take these
15 notes during the meeting as I did not think it was
16 appropriate to be jotting down comments when we were in
17 discussion with the family and they were posing numerous
18 questions to us both about events that morning. The
19 notes I took were very much my recollection of the
20 questions that were posed to us and the responses we
21 provided. I recorded these as soon as I got back to the
22 office."

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

25 " ... 'Attended [redacted] at about 1830 accompanied

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1 by [Chief Superintendent]. Numerous family members
2 present. Some introduced Ade (brother-in-law), sister
3 Kadi, partner Collette, her mother. [Chief
4 Superintendent] took lead and explained that purpose of
5 visit was to provide them of our understanding of events
6 from a police perspective. Emphasised that this was not
7 a factual account but what had been provided to us to
8 date. Explained that this was fluid and many people
9 were still to be seen. [Chief Superintendent] explained
10 to all present that at about 0700 this morning a number
11 of calls were received by the police from members of the
12 public about a black African man in possession of a
13 knife on Hendry Road at its junction with Hayfield Road.
14 Officers had just commenced duty and left from the
15 police station. Attended the scene and during his
16 apprehension, CS spray was discharged and batons
17 withdrawn. During this officers became aware that Shek
18 had lost consciousness. They administered CPR and
19 called for an ambulance. Shek was PLE'd at 0904
20 [Chief Superintendent] explained the role of the PIRC to
21 undertake the independent enquiry and were in attendance
22 at Kirkcaldy Police Station and would make contact with
23 the family to inform them of their role.

24 "Number of questions were posed by the family: (1),
25 Why this was the first of them being told that Shek's

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1 death involved contact with the police? (2) Why did the
2 police not disarm him? (3) The family have been told
3 that there were 15 officers in attendance. Why did it
4 take 15 officers? (4) Why have the police taken Arran
5 Crescent as a scene? They have fears officers will
6 'plant' the knife. (1) C/Supt could not comment on what
7 the family have been told to date. (2) No response
8 given. (3) No confirmation of numbers given. (4)
9 Again, unable to confirm but explained that he would
10 contact PIRC to assist in retrieving baby items ie baby
11 milk, nappies for child of deceased. Overall, family
12 members extremely distraught, angry and frustrated~..."

13 LORD BRACADALE: I'm really sorry to interrupt, Ms Thomson,
14 but there's a message from the stenographer that she's
15 not managing to keep up with you, and she says please
16 slow down. So do you mind doing that.

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

18 "(4) Again, unable to confirm but explained that he
19 would contact PIRC to assist in retrieving baby items ie
20 baby milk, nappies for child of deceased. Overall
21 family members extremely distraught, angry and
22 frustrated by lack of information. Ade requested that
23 [Chief Superintendent] contact him tomorrow and
24 requested that we do not release any information to
25 media as Shek's mother had not been contacted and other

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1 family members were trying to contact her in Croydon.
2 1920 approx - [Chief Superintendent] and I left and
3 returned to Kirkcaldy Police Station."

4 I'd like to ask you some questions around your
5 recollection of that meeting. If we scroll up a little
6 bit again, please, to look at what you said in your
7 notebook, if we look to the part that is perhaps five
8 lines from the bottom:

9 "Attended the scene and during his apprehension
10 CS spray was discharged and batons withdrawn."

11 Do you see that?

12 A. Yeah.

13 Q. Do you recall what was said about batons being
14 withdrawn?

15 A. No. Other than that, no.

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

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

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

22 A. Yeah. It is, yeah.

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

25 A. Not sure if I did.

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1 Q. Was that information shared with the family?

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

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

5 A. No, not in there, no.

6 Q. There's mention of an apprehension:

7 "... CS spray was discharged and batons withdrawn.
8 During this officers became aware that Shek had lost
9 consciousness."

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

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

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

14 A. When I went to see the family?

15 Q. Yes.

16 A. Yes.

17 Q. Was that information shared with them?

18 A. That there was a restraint?

19 Q. Reference to:

20 "During his apprehension, CS spray was discharged
21 and batons withdrawn. During this officers became aware
22 that Shek had lost consciousness~..."

23 A. Sorry, what was the question?

24 Q. Whether the family -- whether you were aware that there
25 had been a restraint and if so whether the family were

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1 told at the same time?

2 A. I'm not sure the word "restraint" is used.

3 Q. "Apprehension" perhaps is more general?

4 A. Yes, I suppose in answer to your question I'm still not
5 sure if the actual terminology "restraint" was used --

6 Q. You don't know whether that term was used --

7 A. -- I've certainly not recorded that.

8 Q. All right.

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

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

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

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

24 Q. But you'd had sight of or were aware of the content of
25 the death message that had been passed by DC Mitchell

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1 and DC Parker?

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

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

12 "I am asked was I aware of what the content of that
13 brief was that was provided to the family, whether in
14 advance or in the aftermath. From my recollection,
15 I wasn't aware beforehand. I think the first I was
16 aware was when they came back and explained that they'd
17 been to the family's home address and they'd faced
18 a number of questions that they were unable to answer.
19 It was at that point I became aware that there had been
20 a pre-planned brief. I am asked if I saw the wording of
21 the brief that had been provided to the officers to give
22 to the family either because it was written down or
23 perhaps, I'd been told what the brief said. Possibly.
24 I seem to remember being aware it was quite a short
25 brief, six or seven lines from recollection, I'm

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1 assuming from that that I must have seen it written
2 down. However, whether I actually had an opportunity to
3 read it or had simply been aware of it I'm not sure.
4 I'm asked whether the officers told me who provided the
5 brief. They possibly did. I don't recall now."

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

17 I'm just wondering why it was that Garry McEwan or
18 indeed neither you nor Garry McEwan were in a position
19 to advise the family. You say that you couldn't advise
20 the family of what had been said before because you
21 didn't have that knowledge, but you did have some
22 knowledge of the pre-prepared brief that had been read
23 over previously?

24 A. Yes, so I definitely had knowledge that there was
25 a pre-prepared statement that had been provided. What

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1 I'm not clear is if I was fully, you know, in a position
2 to read what was -- what had been provided, and then
3 anything in addition that had been said, I wasn't in
4 a position to say categorically what had been told to
5 the family by officers that had spoken to them before we
6 got there.

7 Q. Certainly Sergeant Dursley and Detective Constables
8 Mitchell and Parker had all reported to you that their
9 meeting had been a difficult one, and it was against
10 that background that you and the Chief Superintendent
11 decided to go and meet with the family. So what steps
12 did you take to inform yourself as to what had gone
13 before in terms of the contact that DC Mitchell and
14 DC Parker had had with the family, information that had
15 been shared by them, concerns that had been raised by
16 the family? What steps did you take to inform yourself
17 of these things in preparation for the meeting that you
18 were going to have with the family?

19 A. Yeah, I mean, my recollection of those conversations,
20 and you referenced the difficult conversation, difficult
21 in the sense that the officers couldn't answer the
22 questions that were being posed by the family, that was
23 what came through clearly when they came back, that they
24 had the pre-prepared statement that they were going to
25 describe in outline, but over and above that they

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1 weren't able to answer the questions.

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

6 Q. And what steps did you take to find out what questions
7 had been asked that the officers were not able to
8 answer?

9 A. I'm not sure about steps, but it was -- it was quite
10 clear they were looking for information that had led to
11 (a) the police, you know, coming upon Mr Bayoh that
12 morning, and then what had happened subsequently.
13 I didn't know anything other than what I had been privy
14 to through the gold updates, and even then they were
15 from third party references, because that's how we were
16 informed at the gold as to the information, you know,
17 and that is documented in the factual update, I think
18 it's called, in one of the meeting minutes. So I knew
19 as much as that. Whether they knew any more than me,
20 I'm not sure.

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

25 A. I felt that it was quite clear it was -- the information

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1 that was being sought from us was very specific about
2 the incident itself and the difficulty they had, being
3 unable to answer them is because they didn't know --
4 either they didn't know the information, which was my
5 understanding~...

6 That meeting when they came back and the timescales
7 between us going back out weren't -- it wasn't
8 a significant timescale, so that initial meeting was --
9 I can't even recall the wording or how they described
10 the meeting with the family other than they were faced
11 with numerous questions about what had happened, and
12 they were unable to answer them. So I'm not sure how
13 much more I would have got from them to probe that much
14 further.

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

21 A. That's true.

22 Q. -- and when I asked whether you were aware that this was
23 the second death message, you were unaware. We heard
24 evidence from DC Mitchell and DC Parker that when they
25 first went to the house they simply said that

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1 Sheku Bayoh was dead or possibly had been found dead, no
2 further circumstances were given, and in particular no
3 mention was made of his death following on from contact
4 with Police

5 The first time the family received that information
6 was when they were read the pre-prepared brief by
7 DC Mitchell at the time of the second visit to the
8 family. Would it have helped you to have been aware of
9 that background when you went to the family home that
10 evening?

11 A. Yes.

12 Q. How would it have helped?

13 A. To understand concerns and the origin of those concerns,
14 had they been raised with me, which I would have
15 expected they would be.

16 Q. What insight would the information that I have just
17 shared with you have given you into the origin of the
18 family's concerns?

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

21 So ...

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

25 A. It does, but I -- I expected that, I had that sense from

Transcript of the Sheku Bayoh Inquiry

1 the questioning and the fact that the detectives came
2 back and said they simply couldn't answer questions
3 about what had taken place, so for me that transparency
4 was evident.

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

8 A. I don't --

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

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

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

14 A. Yes.

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

18 A. Yes.

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

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

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1 "No response given."

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

3 A. Couldn't answer it.

4 Q. Why not?

5 A. Didn't have that information.

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

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

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

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

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

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

24 A. Yes.

25 Q. Within the structure, and had been at the Gold Groups

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1 would contact PIRC staff to assist in retrieving any
2 items from the home address. They specifically stated
3 that they required items for the infant child."

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

15 A. Is that my original statement?

16 Q. Yes.

17 A. So it's, you know, in recalling that -- sorry, the
18 question that I think the Public Inquiry posed was,
19 you know, the reasoning for -- or what questions could
20 or couldn't be answered. So my recollection, having
21 read back my statement, you know, certainly the original
22 operational statement, I've clearly recorded that. But
23 I suppose being asked now, I don't recall the
24 conversation.

25 Q. Ok. I don't think it was a question that came from the

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1 Inquiry team, I think it was just a copy and paste from
2 your notepad?

3 A. Right, okay.

4 Q. We can go back to your Inquiry statement very briefly,
5 it's paragraph 31. Look further down that paragraph,
6 please. Again, looking at the questions, question 4:

7 "Why have the police taken Arran Crescent as
8 a scene?"

9 Answer 4:

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

12 I'm just wondering what the explanation was for why
13 you've noted in your notebook "unable to confirm", and
14 that appears to be your evidence today, but your
15 operational statement suggests that quite a detailed
16 explanation, in fact, was provided to the family?

17 A. I suppose what I'm saying is when I've recorded it in my
18 operational statement, which would have been done within
19 a month of the incident, I have recorded that
20 information. I think what I'm being -- what I was being
21 asked, probably what I'm trying to convey is when I was
22 asked part of the Public Inquiry statement, that part of
23 my notebook that's basically been put back to me about
24 that very point about not having any further
25 information, so being asked now do I remember that

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1 comment, I don't, is probably what I'm trying to say.

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

4 "Why did the police not disarm him?

5 "No response given."

6 When you went to visit the family on the evening of
7 3 May, were you aware by that point in time that
8 Sheku Bayoh had not in fact been in possession of
9 a knife at the point that he came in contact with
10 police?

11 A. Sorry, can you ask that again?

12 Q. Of course. On the evening of 3 May, did you know that
13 Sheku Bayoh had not in fact been in possession of
14 a knife when he came in contact with the police? The
15 knife was recovered nearby, but he was not in possession
16 of a knife when he came in contact with the police; did
17 you know that?

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

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

24 A. Again, probably -- I am conscious of the fact that the
25 information I knew didn't come from the officers that

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1 were involved, so, you know, the information that was
2 provided to me had come from third parties that had
3 relayed that to inform the gold. So those, I suppose,
4 you know, I'm conscious of relaying information that
5 I don't know the origin and the provenance of. So it's
6 quite a specific question about the knife. I don't know
7 at that point, you know, as -- that I would be relaying
8 information that I don't know the accuracy of.

9 Q. Do you recall there being any mention, either by
10 Chief Superintendent McEwan or by yourself, of
11 a machete?

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

14 Q. Right.

15 A. And I don't recall that.

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

18 A. No.

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

22 A. Now, no.

23 Q. And do you recall this: we heard evidence from
24 Collette Bell that she became very upset at the time of
25 your visit. Do you recall Collette Bell being present

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- 1 at the time of your visit?
- 2 A. Yes.
- 3 Q. Yes, and saying:
- 4 "So you battered him to death?"
- 5 And she says:
- 6 "This chief of police~..."
- 7 Presumably referring to Chief Superintendent McEwan:
- 8 "... I'll always remember, he just shrugged his
- 9 shoulders."
- 10 Do you recall Collette saying those words?
- 11 A. No.
- 12 Q. Do you recall at any time the Chief Superintendent
- 13 shrugging his shoulders?
- 14 A. No.
- 15 Q. You said that your role at this meeting was to support
- 16 your colleague and also to monitor impact -- the impact
- 17 of this incident on the family. Did attending the
- 18 meeting help you to understand the impact of their loss?
- 19 A. Yes, it did.
- 20 Q. And how did that information help you to fulfil your
- 21 role going forwards?
- 22 A. It was evident to me how concerned and upset they were.
- 23 So in performing my role round about community tensions,
- 24 that's absolutely crucial to be aware of that.
- 25 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
23 explain in the first few lines that your role for the
24 welfare of the officers included ensuring they had
25 access to support services, how you were going to

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

10 And towards the bottom of that paragraph -- sorry,
11 we're still on paragraph 33 but just at the bottom of
12 it:

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

19 And that fits very much with what you said in the
20 earlier part of your evidence in terms of the welfare
21 role you had, you effectively came in behind the PIM
22 when the post-incident procedures concluded and had
23 responsibility for the officers' welfare.

24 I just have a couple of questions in relation to
25 this. Did you at any time discuss what had happened at

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1 Hayfield Road on 3 May with any of the officers who were
2 Present?

3 A. Present?

4 Q. At Hayfield Road.

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

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

11 A. At any point in --

12 Q. At any point in time?

13 A. Yeah. Not about the incident itself, but I had spoken
14 to them.

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

17 A. No.

18 Q. No. Did you have any discussions with any of the
19 officers who were at Hayfield Road about preparing
20 statements?

21 A. No.

22 Q. Or about filling out forms?

23 A. No.

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

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1 A. Personally probably for the next month or so, because at
2 that -- and I can say that with confidence because
3 I moved roles.

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

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

8 Q. I want to move on from that and I want to ask you some
9 questions now in relation to the community impact
10 assessment, meetings with elected members, meetings with
11 lay advisers.

12 Let's begin with paragraph 37 of your Inquiry
13 statement:

14 "I'm asked about the relationship between
15 Police Scotland and minority ethnic communities in Fife
16 prior to this incident on 3 May. I would describe the
17 relationships as very good. I base that opinion on the
18 various contacts and engagements I've had with our
19 ethnic minority communities over the years and the work
20 that Fife Constabulary and latterly Police Scotland
21 carried out as part of our community policing model."

22 How long had you been working in the Fife area as at
23 2015?

24 A. About 20 years.

25 Q. What relationship did you have with the minority ethnic

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1 communities in Fife?

2 A. The community policing model that Fife adopted was what
3 I was, I suppose, brought up in policing to understand.
4 Fife Constabulary, as it was, you know, certainly
5 through the majority of my service up to that point,
6 introduced a new community engagement model, I think it
7 was maybe back in 2007/2008, and it was a complete
8 overhaul of how -- not overhaul, but they moved
9 a significant number of officers into community policing
10 from response to make policing more local, more
11 understanding of community needs. So it was quite novel
12 in terms of an approach in policing senses in Scotland.
13 So that then, what that did is we had a designated
14 officer for every single beat area in Fife who was
15 identifiable for everybody in communities to have that
16 kind of community engagement model.

17 So it was -- you know, it was something that was
18 very well documented and publicised at the time, and it,
19 I think it extended right up until -- in fact, it went
20 to an enhanced community engagement model and then to
21 coming into the being of Police Scotland. So, you know,
22 I base, I suppose, that opinion on my 20 years of having
23 community policing at the heart of really local
24 multi-member ward beat areas as being really the
25 foundation of what Fife Constabulary was about.

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1 So, and as I've come through the ranks there's,
2 you know, different contacts and experience that I've
3 got with ethnic minority communities, both personally
4 and both as a manager. For example, I think round about
5 this time we were doing a lot of work with third party
6 reporting centres for hate crimes, so local officers
7 from Kirkcaldy were in training staff within third party
8 reporting centres, and we were doing that as part of
9 that community safety co-ordinating group that I spoke
10 about yesterday, where it's not just the police that are
11 looking at, you know, diversity in a local community,
12 it's a whole partnership approach.

13 So that was one area in terms of what I remember
14 ongoing at the time, and, you know, what I vividly
15 remember one of the lay advisers telling us, you know,
16 as part of this enquiry, is that their concern was that
17 a lot of the good work that had been done with ethnic
18 minority communities in Fife could be undone because of
19 some of the lack of information that was going out.

20 So, you know, it probably was basing my -- that's
21 what my assessment of community policing and work with
22 ethnic minorities was based on is my own personal
23 experience and sometimes in those leadership roles where
24 I have got a good knowledge of what we were doing
25 locally.

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

3 A. Yeah.

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

5 A. In Fife, sorry, or Kirkcaldy?

6 Q. Fife or Kirkcaldy, whichever you're more comfortable
7 with.

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

15 Fife would have -- there would have been minor
16 variations on that, but that would have been -- the
17 majority of Fife would have reflected that.

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

25 (Pause)

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1 So we see it's a Police Scotland documentation
2 diversity booklet, a practical guide published I think
3 by Safer Communities in August 2013. Have you seen this
4 before?

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

6 Q. Have you seen it since 2015?

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

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

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

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

21 "Islam prescribes quite precise rules for conduct
22 between the sexes, requiring that men and women do not
23 mix together in ways that compromise their modesty and
24 integrity. Communication may be more effective if the
25 officer is of the same gender as the person they are

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1 dealing with.

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

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

18 Then further down:

19 "Attending a Muslim house.

20 "If you arrive unannounced at a family home, you may
21 interrupt prayers. If possible, wait a short period, to
22 enable prayers to finish without interruption;

23 "Many Muslim women may not be comfortable in mixed
24 company and will tend to avoid being in a room if men
25 are present. As such, any cross gender communication

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1 may cause difficulties or offence."

2 Then there's some guidance in relation to food and
3 significant dates; searches, searches required to be
4 carried out; and sudden death:

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

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

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

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

17 A. In terms of my involvement?

18 Q. Well, from the managing the community tensions
19 perspective, is it something that you considered?

20 A. I think it was considered.

21 Q. Mm-hm. By you?

22 A. It came through one of the lay advisory groups.

23 Q. So was it a recommendation from one of the lay advisors?

24 A. Not sure about a recommendation, but it was certainly
25 a conversation which I'm sure is recorded within the

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1 meetings of those --

2 Q. We'll be coming to those very shortly and we might see
3 it. But to the best of your recollection was the Imam
4 or an elder involved at any stage?

5 A. Definitely spoken about, I don't know about involved and
6 as we went through the weeks in the aftermath in terms
7 of prior to funeral, et cetera, there was definitely
8 discussions about that.

9 Q. Let's carry on going through this manual, please, under
10 the heading of, "Sudden deaths", scrolling down
11 a little:

12 "Muslims are always buried as they believe in
13 resurrection of the body after death. Burial should
14 take place as soon as possible~... Delay ... can cause
15 families more grief.

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

19 And there are then some general considerations and
20 some information on festivals and holy days, if we carry
21 on scrolling down.

22 Thank you.

23 Then very briefly, let's look at page 81, I don't
24 think we need to look at this in detail, but do we
25 see -- sorry, scroll down a little bit further,

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1 thank you -- there's a section on the African and
2 African-Caribbean communities, and culture, language
3 tradition and religion are included there.

4 Would you have found it helpful to have had access
5 to this booklet before you went to meet with
6 Sheku Bayoh's family or indeed in the days and weeks
7 that followed during the course of your meetings with
8 the lay advisers and the elected members in the context
9 of your community impact work?

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

12 Q. Let's turn to the community impact assessment. It's
13 PS10193. Now, this is a lengthy document and we're not
14 going to go through every page. I can advise that at
15 the conclusion of your evidence this document,
16 appropriately redacted, will be published on our website
17 so people can look at the fine detail of it. But what
18 I would like to do is get our bearings because it looks
19 to be a pro forma and you can help us understand how it
20 is completed and the sort of information that is
21 recorded in the community impact assessment and then
22 I'll take you to some key entries that we can talk
23 about.

24 So, this appears to be, as I say, a pro forma and on
25 the first page we see that this is version 29, can you

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- 1 help us to understand what that means? I gather that
2 there are previous versions with numbers beneath 29,
3 which perhaps don't go quite so far chronologically as
4 this version?
- 5 A. Any updates should clearly change the version control,
6 so chronologically the higher you go the more recent the
7 chronology should be.
- 8 Q. So is this a rolling document, then, that is added to as
9 time goes on?
- 10 A. Yeah, it's a live document, so it's, you know,
11 constantly updated and as it's updated the version
12 control will increase.
- 13 Q. Let's look at the pro forma, the first few pages, just
14 to make ourselves familiar with the format here:
- 15 "Community impact assessment.
16 "Death of Sheku Bayoh.
17 "... Background information.
18 "Version 29."
19 You've got your police reference name date and time
20 of death. Then the nature of the incident, I don't
21 think we need to look at that in any detail for present
22 purposes. And then the location, and the loci that have
23 been identified. Then there's a description of the main
24 communities and groups in the area, and I note there's
25 a reference to a mosque there a short distance from both

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1 the locus and the deceased's home address.

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

3 "There may be tensions in the community given the
4 circumstances of the death and the deceased's ethnicity
5 and religion."

6 What were his ethnicity and religion understood to
7 be on 3 May 2015?

8 A. Ethnicity was black and his religion was Muslim is what
9 I had been told.

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

11 A. Okay.

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

14 A. Okay.

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

17 Trigger points have been identified. What are
18 trigger points?

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

24 Q. It does, it does, and the trigger points identified are
25 the results of the post-mortem and the funeral, negative

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1 comments on social media in relation to the actions of
2 the police, possible hostility towards the police, and
3 the reactions of the family.

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

9 A. Yeah.

10 Q. So who is Jimmy Adamson?

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

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

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

18 Q. You were sighted on it and ultimately responsible

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

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

22 A. So the document's clearly there as a record of how we
23 transition through those days, the structures that were
24 put in place where the lay advisory group clearly then
25 feeding into what was a community impact and reassurance

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1 group with a wide range of membership.

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

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

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

14 Q. Perhaps conversations?

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

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

17 A. Yeah.

18 Q. Elected members updates?

19 A. Yeah.

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

22 A. Yeah.

23 Q. So the objectives, we have seen these before, I think
24 they come from the Gold Group meeting, so we can skim
25 over these and carry on scrolling through the document,

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1 please.

2 (Pause)

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

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

15 Q. We can look -- we're not going to look at every
16 paragraph on every page of this document because it's
17 a very long document, but within this box, if we can
18 scroll down a little bit, please, perfect, you identify
19 in the second paragraph down:

20 "The community group most likely to be affected are
21 family members and associates of the deceased~...
22 potentially more than 15 people, some are children. The
23 deceased is from Sierra Leone but has lived in this
24 country since he was 14. Mother still resides there,
25 but coincidentally was in the UK at the time of his

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1 death. And there's reference to him having a baby:

2 "These people will be affected because of their
3 relationship to the deceased and the traumatic nature of
4 the incident."

5 Beneath that:

6 "It is understood that although members of the
7 deceased family are devout Muslims, the deceased did not
8 practice his faith."

9 Where did that information come from?

10 A. I don't know.

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

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

16 Q. "However it is likely that the death will impact on the
17 Muslim faith groups in Kirkcaldy because of the
18 deceased's religion and the fact that several relatives
19 are devout Muslim."

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

23 "The deceased was Muslim and although believed not
24 to be practising his faith this has had to be taken into
25 consideration throughout the community impact

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1 assessment. It is vital that as the enquiry develops
2 any information pertaining to the cultural or other
3 diversity needs of the deceased are communicated to
4 CI Shepherd to allow for local needs to be met.
5 Equality lay advisors have been contacted and will form
6 part of the reassurance plan. A separate diversity and
7 engagement plan has been produced in support of this CIA
8 that further identifies E&D considerations. Cultural
9 issues around funeral and post-mortem arrangements,
10 although as yet unclear, may raise cultural
11 sensitivities."

12 I would like to ask a couple of questions about
13 that. Although we see Sergeant Adamson's name and the
14 date of 4 May on page 2, is this part of the initial
15 document that he has prepared on that date?

16 A. Those specific comments?

17 Q. Yes.

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

19 Q. Sorry, I phrased that very clumsily.

20 When we looked at page 2 of this pro forma,
21 assessment completed by Jimmy Adamson on 4 May 2015,
22 there was then some background information on page 3,
23 and we're now looking at page 4. I'm wondering if you
24 can help me with when this particular page was
25 completed?

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

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

3 Q. Because I don't see any later dates before the point

4 that we get on to meetings. Updates.

5 A. It makes sense from the chronology that that was updated

6 on the 4th --

7 Q. Right.

8 A. -- but I wouldn't want to categorically say that. But

9 because it flows like that, then I would say that would

10 be my assumption.

11 Q. Alright. Well, there's reference in that paragraph to

12 "Equality lay advisers have been contacted", and we

13 touched on this earlier. We've ascertained that you

14 don't recall a conversation with an adviser called

15 Gary Wilson, indeed that conversation may not have been

16 with you on 4 May, and you told us that there were

17 ultimately two lay advisers appointed; would that be the

18 correct turn of phrase? Did they assist you throughout?

19 A. Yeah.

20 Q. Yes, and one was Polish, you said, and one was Muslim.

21 Was he black Muslim?

22 A. No.

23 Q. What was his ethnicity?

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

25 sure.

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

6 A. It wasn't me.

7 Q. But it would appear that by the 4th, on the assumption
8 this form was completed on the 4th, the equality lay
9 advisers had been contacted and would form part of the
10 reinsurance plan.

11 What's the reinsurance plan? Is this the same as
12 the reinsurance patrols, or something different?

13 A. That's -- so, is that the diversity and reinsurance?

14 Q. I'm on 2.2, it's the paragraph that's on the screen near
15 the bottom. 2.2, last sentence -- sorry, second last
16 sentence:

17 "Equality lay advisers ..."

18 Sorry, do you see that?

19 "Equality lay advisers have been contacted and will
20 form part of the reinsurance plan."

21 A. Yeah, sorry, I was reading on to the next bit, about the
22 diversity engagement plan. Apologies, that's my fault.
23 So, yes, the equality lay advisers will be contacted to
24 form part of this reinsurance plan, community impact
25 assessment.

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1 Q. So the reassurance plan and community impact assessment
2 are one and the same?

3 A. Yes.

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

5 A. Yeah.

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

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

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

14 "Are there any other intelligence or community
15 information available to inform your assessment?"

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

19 What's the DIO?

20 A. Divisional intelligence officer.

21 Q. Okay.

22 "Any impact on community tensions will be considered
23 as part of the CIA."

24 And then consultation, are these the people who are
25 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?

23 A. Yeah.

24 Q. Further down we have a risk assessment. What risk are
25 you assessing here?

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

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

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

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

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

17 Witnesses, at that point nothing specific.

18 Officers, clearly because of the nature of the
19 incident, would be, you know, an area that's more
20 likely.

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

23 And incident replication probably just means were we
24 likely to see a recurrence of what we've seen, and the
25 assessment of that was low.

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

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

5 Arrest. From what we knew, certainly on day one,
6 there wasn't arrests at that point, so low at that
7 point.

8 Searches. At that point, certainly community impact
9 was assessed as low and nothing certainly coming to us
10 to suggest otherwise.

11 And release of suspects, probably not applicable as
12 per the arrest discussion.

13 The funeral because it's one of those moments in
14 time which can create more or increase community
15 tension. So it's a marker to say that until we know
16 otherwise, or of other significant events, then that
17 would be something that we would be looking to monitor.

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

20 LORD BRACADALE: That is a convenient point. We will stop
21 there for lunch. 2 o'clock.

22 (1.01 pm)

23 (The short adjournment)

24 (2.00 pm)

25 (Proceedings delayed)

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1 (2.02 pm)

2 LORD BRACADALE: Yes, Ms Thomson.

3 MS THOMSON: Thank you.

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

8 (Pause)

9 It's PS10193.

10 (Pause)

11 Thank you. In fact, let's go to the bottom of
12 page 6, first, just to get our bearings. We looked at
13 the risk assessment at the bottom of page 6. And then
14 at the very, very bottom, 3.4, just a banner that says:

15 "Consider the impact of the event/incident/operation
16 or any proposed action at local, force or national
17 level."

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

20 "There are reassurance patrols as part of the
21 ongoing police activity in the area."

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

25 A. Yes, yes.

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1 Q. Engaging with the community, being a visible presence in
2 the community:

3 "These have already attracted the attention of local
4 residents. To mitigate miscommunication of the
5 incident, a pre-prepared briefing has been supplied to
6 local officers."

7 What does that mean?

8 A. From recollection, we had a number of officers that were
9 clearly coming in from other areas and the communication
10 with officers in Kirkcaldy and in fact wider that comms
11 was being taken forward, that comms strategy was being
12 taken forward by our corporate communications, that also
13 included that internal body. And so from my
14 recollection there was a form of words that was provided
15 internally to staff by our corporate communications
16 department.

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

20 A. In its basic sense, yes.

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

23 A. Yep.

24 Q. "Officers from other divisions are also being used
25 locally so it is vital that they receive this briefing

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1 to ensure a corporate approach to what is disseminated.

2 "It should be borne in mind that as the
3 circumstances surrounding the death are reported in the
4 media, locally, nationally and perhaps globally, the
5 incident may be linked, by some, to events elsewhere
6 where individuals from ethnic minority groups have died
7 after being involved in altercations with the police."

8 What's being referred to there?

9 A. Again, without knowing the direct events that the author
10 has included, but I -- my sense from that is events UK
11 and abroad.

12 Q. What sort of events?

13 A. Where persons have died in police custody or as a result
14 of police involvement with firearms. That's my
15 assessment of it.

16 Q. All right. So this is still the part of the document
17 that was completed on 4 May by Sergeant Jimmy Anderson
18 [sic]?

19 A. Jimmy Adamson, yeah. The chronology looks -- it's not
20 actually dated that entry but 4th or 5th looking at the
21 way the entries go.

22 Q. All right:

23 "There is an identified risk due to the involvement
24 of on duty police officers. Their welfare and support
25 has been considered within ... (PIM) procedures. All

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1 officers involved have had consultation with
2 representatives from the Police Federation."

3 Why was there an identified risk due to the
4 involvement of on duty police officers?

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

10 Q. And what was the risk that was identified as being
11 possible?

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

18 Q. The officers involved?

19 A. Yeah.

20 Q. If we look to the bottom of that entry we see a heading:

21 "Update from Community Impact and Reassurance Group
22 meeting held at 1100 hours on 5/5/15."

23 Now, Superintendent you have got the full community
24 impact assessment in front of you, and if you flick
25 through it I think you will see that from this point on

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1 there are perhaps about 20 pages or thereby of updates,
2 summaries from various meetings, conversations,
3 briefings, all recorded in one place, as you explained
4 to us?

5 A. There is, yeah.

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

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

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

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

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

25 It would then, looking at that chronology, be

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

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

10 A. No.

11 Q. So they were separate?

12 A. Yeah.

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

16 "It has been decided that high-visibility
17 reassurance patrols will continue during [5 May~...]
18 however it is felt that continuing patrols beyond this
19 date may have a detrimental effect and cause the public
20 to become more concerned about the incident. However,
21 officers will remain in the area carrying out high
22 visibility house-to-house enquiries which it has been
23 assessed should provide appropriate reassurance."

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

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

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

16 Q. Trying to strike a balance?

17 A. Yes.

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

21 "The incident has been discussed on social media. A
22 previous partner, who has a child to the deceased, has
23 posted concerns that she found out about the death from
24 social media rather than being notified by the police.
25 PIRC have been advised to contact the individual as

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1 a priority. Social media posts in relation to the
2 incident are being monitored by the DIO. It was
3 reported that there had been no posts to suggest public
4 unrest."

5 I'm interested in this reference to Mr Bayoh's
6 previous partner having posted concerns that she found
7 out about the death from social media. So the
8 suggestion that she posted concerns suggests that she
9 has in turn used social media as a platform to voice
10 those concerns; am I reading that sentence correctly?

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

12 Q. So as part of the social media monitoring that you've
13 told us was going on, can we take it that there has been
14 some monitoring carried out on presumably public-facing
15 media posts, social media posts, by Mr Bayoh's previous
16 partner?

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

18 Q. Carrying on:

19 "A representative from the Scottish Police
20 Federation was present during the meeting."

21 Do you recall who that was?

22 A. On the 5th?

23 Q. On the 5th.

24 A. There should be a minute to say, but I don't know, but
25 I don't remember meeting too many of them during that,

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- 1 so I'm assuming Amanda Givan.
- 2 Q. Yes, she was certainly involved on the 3rd.
- 3 A. Okay.
- 4 Q. "The officer explained that she was providing support to
5 the officers concerned and had met most during [the
6 4th~...]. Police Incident Management debriefing will
7 take place after discussions with PIRC. The
8 representative mentioned that several phone calls had
9 been received from officers concerned that this may have
10 been a terrorist incident. Media will discuss the
11 matter with the Executive for consideration of
12 an internal communications message to be sent to
13 officers to allay any fears that the matter has a CT
14 link."
- 15 I'm interested in the second part of that paragraph:
16 "The representative mentioned ... several phone
17 calls had been received from officers concerned that
18 this may have been a terrorist incident."
- 19 Can you advise whether the representative said those
20 phone calls had come from officers who attended
21 Hayfield Road or from other officers?
- 22 A. I couldn't say.
- 23 Q. There's reference to the matter being discussed with the
24 executive, what's the executive in that context?
- 25 A. By the context the force executive, I think that's

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1 the -- or senior, you know, Chief Constable, deputy
2 chief constable, assistant chief constables, and police
3 staff equivalents.

4 Q. There was mention of the matter being raised with the
5 executive:

6 "... for consideration of an internal communications
7 message to be sent to officers to allay any fears that
8 the matter has a CT link."

9 Do you know whether that happened?

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

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

15 Let's look at the next entry:

16 "Update from Community Impact and Reassurance Group
17 meeting held at~..."

18 1 o'clock on 6 May. I just note in passing the
19 second paragraph there records that:

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

24 Is that an example of the sort of information that
25 you're gleaning as a result of the social media

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1 monitoring?

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

4 Q. Okay, and if we carry on to the next page, the second
5 paragraph from the top, there's a reference there to
6 a Facebook page and at the bottom of that second
7 paragraph a Twitter feed. So again that tends to
8 suggest that's part of the monitoring of social media,
9 there is some monitoring of Facebook pages and of
10 Twitter; would that be fair?

11 A. Yeah.

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

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

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

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1 officers. Chief Inspector Shepherd was unable to
2 comment."

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

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

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

10 A. I don't now, no.

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

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

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

18 A. Yeah, sorry, yeah.

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

22 Were the elected members looking to you or to the
23 wider -- to Police Scotland in the wider sense to
24 provide them with information so they could inform and
25 reassure their constituents?

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1 A. Yes, because that's the role ordinarily that they
2 perform, you know, is to link in with their local
3 community, so yes.

4 Q. We see it recorded here that they felt unable to provide
5 information to constituents because they had a lack of
6 information themselves. Some had asked if the incident
7 was CT-related and if the officers were firearms
8 officers, and it's recorded here that,
9 "Chief Inspector Shepherd was unable to comment".

10 Now, I know you were asked about this paragraph in
11 your Inquiry statement, so let's take you to that,
12 please, can we go to paragraph 40 of your Inquiry
13 statement:

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

16 That we have just looked at together, so we can move
17 beyond the italic text because it repeats what we have
18 just read out:

19 "I'm asked why I couldn't confirm that it wasn't
20 counterterrorism related and that the officers were not
21 firearms officers at that point. My recollection is
22 that Police Scotland was not engaging with the media at
23 all. There was nothing going out. The engagement I had
24 with community reps, elected reps, and councillors was
25 really succinct. If there was a form of words,

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1 I would've written it down somewhere as to what was
2 said, but really I was never going to elaborate on
3 anything."

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

12 A. Yes, it did make my job that bit more difficult, because
13 ordinarily the relationships I have with those,
14 you know, community representatives, community
15 councillors, is such that, you know, it's not disclosing
16 information that's confidential anyway in a routine
17 sense, but they come to us for reassurance on matters
18 and, you know, I can give them levels of, you know,
19 non-sensitive information. On this occasion that wasn't
20 possible, so I felt they found that quite difficult then
21 to do what their role is, which is, you know, inform
22 communities of things that are going on to manage any
23 community tension. So hamstrung's probably a good term,
24 that it did make my role with them more difficult than
25 it ordinarily is.

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

4 A. Yeah.

5 Q. Clearly the elected representatives brought their
6 concerns to your door, they were finding it hard to
7 reassure their own constituents, or indeed inform them
8 as to the circumstances and you felt the impact of that
9 yourself. What steps, if any, did you take to obtain
10 clearance or authority to provide the elected
11 representatives with the type of information that they
12 felt they needed in order to inform and reassure their
13 constituents?

14 A. That was an evolving process because at certain moments
15 in time, you know, I didn't know if that was going to be
16 the stance, you know, forever or if that was just,
17 you know, a momentary point and then clearly that
18 investigation wasn't sitting with Police Scotland any
19 more so, you know, would it be the case then that it
20 would evolve and the community -- the answers maybe to
21 the questions that they would want would come maybe not
22 from us.

23 So I suppose I was managing it day-to-day and
24 I think from the outset, so I had a form of words that
25 I could share that I think was approved by Crown and

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1 PIRC, very brief in terms of the circumstances, that
2 I think actually went out on 3 May or when I did those
3 communications by phone and email, I think I said
4 earlier on, so it would have never developed, in my
5 sense, of going beyond that initial agreed form of
6 words.

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

9 A. No, I don't, and -- but I do believe it's referenced
10 somewhere either within the gold -- I'm maybe wrong in
11 that, though, but it is referenced somewhere round about
12 that, the Crown approval of those -- those, whatever
13 I was going to say, those brief description of events.

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

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

19 Q. Now, did you know yourself that in fact this was not
20 a counterterrorism related incident and that the
21 officers were not firearms officers, did you have that
22 information?

23 A. In terms of the CT I had no evidence to say it was, but
24 that's not to say -- you know, I wasn't in possession of
25 all the facts. Were they firearms officers? I think

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1 I have said in my Inquiry statement, the officers have
2 different specialisms, so to ask a specific question,
3 "Is that a firearms officer?" One of the officers may
4 well have been a firearms officer but not deployed in
5 that capacity on the day. They hold specialisms,
6 you know, that they may be called out to use, so
7 I actually couldn't answer that question with any
8 certainty because I didn't know if any of them held that
9 speciality, so I took the decision to say I didn't --
10 you know, I couldn't answer those questions because
11 I genuinely didn't know the answer.

12 Q. What steps, if any, did you take to find the answers,
13 did you for example go back to the SIO and say, "Have
14 you eliminated or otherwise counterterrorism as being
15 a motivation for this incident? People are asking,
16 communities need reassurance". Is that something that
17 you did?

18 A. Yeah, so these are points that so then came through that
19 community reassurance group, you know, I would bring all
20 these, that scanning and analysis bit that we spoke
21 about would come to that community reassurance group, so
22 we had clearly representatives from, I didn't say,
23 I think the MIT, the Major Investigation Team were
24 represented and were almost doing the SPoC role for the
25 PIRC, so they would come so all of these points and

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1 points I was being asked I would relay back to give
2 a sense of: here's what I'm, you know, being asked and
3 being made aware of, so that could be, if relevant,
4 relayed to the investigation team, which clearly that's
5 separate of us.

6 Q. And do you recall specifically whether you raised these
7 two particular points around CT and whether the officers
8 were firearms trained, were those queries fed back to
9 the investigation team with a view to you having answers
10 to those questions so that you could convey that
11 information to the elected representatives?

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

19 With the armed -- with the firearms officers,
20 I don't remember going to speak about it, but then
21 I suppose that's that point about, I'm not sure of the
22 relevance for them at that point to get that urgent
23 information that I would think: I need to go away and do
24 that right now to feed that back, it's -- I think they
25 asked out of -- I don't want to say why they asked but,

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1 you know what I mean, it's just that bit about would
2 that have been a priority right then to go and find that
3 out? It wasn't in my eyes.

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

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

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

22 A. The elected members that I was engaged with were very
23 Kirkcaldy focused, so I'd like to think they took my
24 explanation in the way that I delivered it, which is
25 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?

23 A. That's right.

24 Q. And Mr Sayed is the gentleman who you distributed as
25 being of Muslim faith but you are unsure as to his

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1 ethnicity?

2 A. That's right.

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

6 A. Yes.

7 Q. You chaired this meeting?

8 A. Yes.

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

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

18 What did you mean by:

19 "... the PIRC were dealing with the case in
20 isolation of Police Scotland to preserve the integrity
21 of the investigation~..."?

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

24 Q. And you explain that:

25 "... therefore only limited information was known

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1 regarding the circumstances of the death and the
2 familial background ... in particular the deceased's
3 faith."

4 So why was limited information about the background,
5 circumstances and the deceased's faith, why was limited
6 information available to you as a result of PIRC leading
7 on the investigation?

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

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

11 "Both Dukurno and Sayed volunteered to contact the
12 mosque to act in an independent basis as intermediaries
13 for Police Scotland to establish the faith of the
14 deceased and his family and arrange a meeting between
15 community officers and the Imam. At this stage it was
16 decided that a decision would be made after further
17 information had been made available from the PIRC
18 regarding the mosque that the deceased and/or his
19 relatives attend."

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

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

24 Q. I see, and if we could look perhaps very briefly at the
25 SOP, the Lay-Community Advisers SOP, that's PS11955.

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1 Perhaps the bottom of page 4, please, paragraph 3.4.

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

6 "Lay advisers/community advisers should not be used
7 in the following circumstances:

8 "Undertaking enquiries on behalf of the SIO.

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

13 So although I think you said you hadn't seen this
14 SOP before, your understanding was that the lay advisers
15 shouldn't be used in the sense that was being
16 proposed --

17 A. Shouldn't.

18 Q. -- at the meeting?

19 If we can return to the community impact assessment,
20 please, we were at the top of page 9, so if we can look
21 at the paragraph that is presently the bottom paragraph
22 on the screen:

23 "The lay advisers were concerned about the lack of
24 information that had been made available by
25 Police Scotland to the public. Chief Inspector Shepherd

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1 reiterated that the investigation was being carried out
2 by the PIRC and that any media release would be issued
3 by the PIRC. A further discussion took place in respect
4 of providing the public with a greater understanding of
5 the role of the PIRC as it was felt that the general
6 public would not realise that the PIRC was
7 an independent body from the police. Detective
8 Superintendent Crosan said that he would task Lucy
9 Adamson from Corporate Communications to speak to the
10 PIRC officer in relation to releasing more information
11 to the public."

12 So do we see here that the previous day concerns
13 having been expressed by the elected members,
14 the councillors, about a lack of information, those very
15 same concerns were also being brought to your door by
16 the lay advisers?

17 A. It was, yeah.

18 Q. Can we turn now to your Inquiry statement again, please,
19 where you comment in a little more detail. We can look
20 at paragraph 38:

21 "I'm asked about the lay advisers that were involved
22 with the Community Impact and Reassurance Group and the
23 fact that, at times they seem to have had insufficient
24 information to carry out their roles. I felt they were
25 frustrated and hampered by the lack of information we

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1 were able to provide them. They had questions that they
2 felt knowing the answer to would assist them in
3 providing advice. I think it definitely frustrated them
4 that they would ask questions of us in that group, and
5 I genuinely couldn't answer. I couldn't answer because
6 in most cases I didn't know the answer. One such
7 example was not knowing the faith and background of
8 Mr Bayoh. We had made the request through the MIT to
9 the PIRC to have that information but I never received
10 it, that then limited what they could suggest or
11 recommend."

12 I'd like to ask you some questions about this.
13 We've heard evidence that, I think from as early as
14 3 May, it was at least known that Mr Bayoh's family were
15 Muslim, there may have been the question as to the
16 extent to which Mr Bayoh was devout or otherwise, but it
17 was known that the family were a black family from
18 Sierra Leone and they were a Muslim family.

19 Why have you given an example of not knowing the
20 faith and background of Mr Bayoh; what information did
21 you feel that you didn't have, that you weren't getting
22 from the MIT, that wasn't coming back to you from the
23 PIRC?

24 A. You know, everything about the -- in a normal
25 circumstance, we would have, you know, a full background

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1 of the individual, that would be the role of the FLO,
2 you know, to bring that back and let everybody know,
3 you know, how that would impact on what we were trying
4 to do.

5 So the -- from my point of view, you know, I wanted
6 that information verified. I know it's within this
7 document before about practice and faith but I hadn't
8 categorically heard that, that I could provenance that
9 back from the family and until such times I didn't think
10 it was right for me to go out and -- without knowing
11 exactly where it came from. My ask was could the PIRC
12 ask the family and then that way I'd be confident in
13 relaying or, you know, passing that information on to
14 the lay advisers. Otherwise I was worried we would get
15 advice that then wasn't actually reflective of the
16 family dynamic. And I wanted to know what the family
17 dynamic was so I could understand it.

18 Q. You didn't want to make any assumptions?

19 A. Exactly, yeah.

20 Q. Did you feel then that you didn't have sufficient
21 clarity around the family background and in particular
22 Mr Bayoh's faith?

23 A. I didn't.

24 Q. And you say in your Inquiry statement you had made the
25 request through the MIT to the PIRC to have the

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1 information but had never received it. How did you go
2 about making that request?

3 A. So those requests, because -- so that Community Impact
4 and Reassurance Group was represented by the Major
5 Investigation Team, there was a member of staff at that.
6 They were the point of contact for the PIRC. So I would
7 raise at the reassurance group, "Can we get this
8 information?" And I would relay the frustrations as
9 you've already outlined, and the ask would then go, in
10 my view, from the MIT to the PIRC, come back and let us
11 know. We asked that several times.

12 Q. So this was asked more than once?

13 A. Yes.

14 Q. Did you ever get a reply?

15 A. No.

16 Q. How did the lack of this information affect your ability
17 to carry out your role?

18 A. It's very difficult when you don't -- when you're
19 talking about community reassurance, that community
20 involved the family, it was very much about
21 understanding their needs, the sensitivities that
22 I needed to be aware of to make sure the actions of the
23 police and what I could feed back to the wider community
24 was correct and proportionate. In the absence of that,
25 I don't have that level of understanding, and not having

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1 that then you're always cautious about what you don't
2 know. So it made it, it made it difficult in my role
3 because I regarded them as a key part of assessing
4 community impact.

5 Q. How did the absence of that information impact on your
6 relationship with the lay advisers?

7 A. I think it's evident in the -- you know, in their
8 questions. They found it -- they'd come in to aid,
9 you know, the community and aid us and making sure we
10 managed and were aware of cultural sensitivities and
11 they were asking questions so they could give advice and
12 they were ultimately hampered because they were going to
13 base that advice on the information that I could provide
14 them about -- you know, they would understand the
15 community because they were -- they came from the
16 community, but they wanted to know about the family. So
17 did we.

18 Q. So there was also an impact then on their ability to
19 advise you; because they didn't have the foundation upon
20 which to offer advice.

21 A. Yeah, they relayed that to me, that they felt this was
22 difficult because of that.

23 Q. Let's look at paragraph 39 of your statement:

24 "In my PIRC statement ... at page 4 it states 'In my
25 role and in the aftermath of Mr Bayoh's death I have had

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1 meetings with independent lay advisers. In general
2 these meetings dealt with issues regarding cultural
3 matters including what to expect in the run-up and
4 during the course of a Muslim funeral. Likewise, the
5 advisers make it known to police that there was
6 a perceived view in the public domain that there was
7 a lack of information concerning the circumstances of
8 Mr Bayoh's death'. From memory, it was probably
9 a combination of the lack of media reporting, lack of
10 information coming from the police and, in general, in
11 terms of the lack of information in the public domain.
12 I think they felt, when giving advice as part of that
13 group, that other than giving general advice, the
14 specifics of this incident weren't known to them. They
15 weren't, in effect, known to me either because clearly
16 we were not involved in the investigation. So my
17 recollection of some of those meetings was, not knowing
18 the specifics and background, and not having fuller
19 information about the incident itself made their role
20 more difficult in terms of providing advice."

21 You say too there that the circumstances weren't
22 known in effect to you either as you were not involved
23 in the investigation; is that because PIRC was leading
24 the investigation?

25 A. Yes.

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1 Q. What difference do you think it would have made if this
2 had been a police-led investigation in terms of your
3 access to information that you felt you needed in order
4 to properly inform the lay advisers so they could give
5 you effective advice?

6 A. If the Police Scotland were leading and clearly deployed
7 the family liaison officers, part of that role is to
8 gather all the needs and wishes and concerns of the
9 family. That's the role. So that, in managing it and,
10 you know, in another incident where we were deploying
11 FLOs and we had a Gold Group and I was monitoring
12 community impact, that information is massively
13 important for me to understand, you know, the impact on
14 the community and the impact on our actions as well, in
15 particular towards the family.

16 Q. Did you have any dealings with FLOs, police FLOs or PIRC
17 FLOs at any time?

18 A. I didn't, no.

19 Q. We can return to the community impact assessment,
20 please. We had got as far as page 9. If we stop there,
21 thank you. We've just looked at the entry one above and
22 the next entry is an update from the Community Impact
23 and Reassurance Group meeting held at 1500 hours on
24 7 May. That's a very short update so I'd like to
25 actually take you to the minutes.

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1 A. Okay.

2 Q. So if we could look now at PS01461. I want to be clear
3 firstly whether this relates to the same meeting, it's
4 the only meeting that is documented as having taken
5 place with Community Impact and Reassurance Group on
6 7 May in the community impact assessment but the timing
7 on the minutes is slightly different.

8 A. Okay.

9 Q. So perhaps you can help us with that, so this is
10 PS01461.

11 (Pause)

12 Just while we're waiting for that to happen -- here
13 it is on the screen -- I'm wondering in fact whether
14 these minutes might actually relate to the meeting that
15 we've just been talking about, which was the update
16 following the meeting with the lay advisers at 1 o'clock
17 on 7 May 2015.

18 I have the luxury of being able to look at two
19 documents simultaneously at the moment and I notice that
20 the list of attendees at this meeting, which is headed
21 up: "Minutes from Community Impact and Reassurance Group
22 lay advisers subgroup meeting", is exactly the same list
23 of attendees as were present at the meeting with the lay
24 advisers on 7 May which we've just been looking at.

25 But in any event, if we -- it may not matter,

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1 there's just one paragraph here that I was keen to take
2 you to, so if we scroll down and if we look at the first
3 paragraph, there are introductions:

4 "Chief Inspector Shepherd explained that the PIRC
5 were dealing with the case in isolation of
6 Police Scotland."

7 That language is familiar to us, that's been copied
8 over into the community impact assessment. But if we
9 read to the bottom of that paragraph there's a little
10 extra piece of information here which hasn't made it's
11 way into the community impact assessment:

12 "Mr Sayed highlighted that there are different sects
13 of the Muslim Faith and it would be important to know if
14 deceased is a Sunni, Shi'ite etc Muslim. Mr Sayed
15 stated that he would estimate that the African Muslim
16 population in Fife would be approximately 1%."

17 Do you recall that conversation at all and do you
18 recall Mr Sayed's contribution?

19 A. Not now, sadly, no.

20 Q. And do you have an understanding as to why it might be
21 important to know whether the deceased was a Sunni
22 Muslim or a Shi'ite Muslim?

23 A. Absolutely, yeah.

24 Q. Why would that be important to know?

25 A. Again, different practices, cultures, anything like that

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1 comfortable, maybe in terms of the interpretation of
2 that?

3 Q. Just in terms of it potentially having perhaps
4 a negative association. Perhaps it doesn't. I just
5 wondered what your view was.

6 A. I hadn't seen the text up until now, so if it's ...
7 I don't recall the saying, so it's difficult to comment.

8 Q. That's all right, that's fair, we'll move on from that.

9 If we could return to the community impact
10 assessment, please, and if we could go to page 10, at
11 the very bottom of page 10 there is an update from the
12 Community Impact and Reassurance Group meeting at
13 1100 hours on 11 May, so that's where we are, but if we
14 just scroll down a little bit, please, to the final
15 paragraph relating to that meeting, a little bit
16 further, please, there we are:

17 "To date, no further information has been gleaned
18 from the PIRC in relation to the familial background of
19 the deceased. However, Chief Inspector Shepherd will
20 contact [Inspector] Aliane (National Safer
21 Communities~...) in relation to organising a further
22 meeting with the lay advisers."

23 Is this a reference back to what you had explained
24 earlier that you had asked, via the MIT, PIRC for
25 information about Mr Bayoh's family background?

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1 A. It appears, yeah, that's a direct reference to that,
2 yeah.

3 Q. And it's been recorded and by this point on 11 May that
4 no further information has been forthcoming?

5 A. Yeah.

6 Q. If we can scroll down to the bottom of page 11, please,
7 just to get our bearings, there we are, this is
8 an update now from the Community Impact and Reassurance
9 Group meeting on 13 May and over the page at the bottom
10 of that entry, a little bit further, please, there we
11 are, just at the bottom of the screen, sorry, stop. No,
12 no. Now at the top of the screen:

13 "No further information has been gleaned about the
14 familial background of the deceased or when the funeral
15 will take place."

16 A further reference to lack of information coming
17 from the PIRC and that was on 13 May?

18 A. Yeah, that was correct.

19 Q. And if we move on to page 13, please, about halfway down
20 page 13, there's an update from the Community Impact and
21 Reassurance Group meeting 12.35 on 14 May, and in the
22 second paragraph it says:

23 "Detective Inspector Wilson said that he was in
24 regular dialogue with the PIRC and that to date there
25 was no date fixed for the defence post-mortem. He also

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1 said that he did not know the faith of the deceased."

2 So further reference to that information still not
3 being in your possession?

4 A. That's correct, yeah.

5 Q. Can we look at one of your daybook entries, please, this
6 is PS09169, again 14 May, if we can scroll, this is
7 a two-page or the second page of this document, please,
8 very bottom of the second page, there's your notes,
9 I think, that refer to the same entry:

10 "12.40. [Community Impact and Reassurance Group]
11 Chair [Superintendent] Milton.

12 "Factual updates: DI Wilson - no date on PM or
13 funeral. ... no details of Muslim sect. No information
14 re Sierra Leone funeral."

15 This appears to be a handwritten note which
16 correlates with the entry in the community impact
17 assessment that we looked at a moment ago?

18 A. Yeah.

19 Q. And there's perhaps a little more information in your
20 note here. Again, we see the word "sect":

21 "No details of Muslim sect."

22 On this occasion this is in your own notes, this is
23 your daybook and again, are you comfortable with the
24 language you have used there?

25 A. I think I've clearly reflected what was in the last

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1 update. It's not a word I've -- I'm probably overly
2 familiar with, and I've clearly taken that from,
3 I think, the last meeting. If that's, you know, been
4 used in a sense that's offensive I'm -- you know, I had
5 not been aware of that, so I apologise if that's the
6 case but without -- you know, just looking at how it has
7 been worded, I've clearly transposed it across, so ...

8 Q. I'm not accusing you of anything, I just wanted to --

9 A. Apologies, no, it's because I'm looking at it now, it's
10 not a term I'm probably familiar with so I can only say
11 I think I've transposed it over from that Lay Advisory
12 Group and included it.

13 Q. There's a reference here:

14 "No info re Sierra Leone funeral."

15 Was it your understanding that there was going to be
16 a funeral in Sierra Leone?

17 A. No, but I don't know where that update's come from, to
18 be honest, it looks look I'm taking note -- I tend to
19 take notes when somebody says something that I didn't
20 know because I think, you know, "Is this relevant"? So
21 I think I've jotted it down because somebody's mentioned
22 it somewhere in that group and I've thought, "I didn't
23 know that", hence why I've jotted it down.

24 Q. Okay. Did you have an understanding from what was said
25 at the meeting that Mr Bayoh's body was to be taken back

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1 to Sierra Leone, that there was going to be a funeral
2 there? Is that what you understood was going on?

3 A. I had never been aware of that, no.

4 Q. As you say it's perhaps simply something that's taken
5 you by surprise or that you were unaware of and you have
6 made an entry --

7 A. Yeah, to be honest I don't recall that.

8 Q. Can we go back to the community impact assessment,
9 please, and page 15. Could we go to the very bottom of
10 page 15, please, this is just a little bit further up,
11 we can see this is an update from a meeting with the lay
12 advisers on 22 May, and if we look at the two bottom
13 paragraphs:

14 "Chief Inspector Shepherd said that the Daily Record
15 had contacted Police Scotland with a series of
16 questions, which the paper were requesting responses to,
17 in relation to the death. The Chief Inspector detailed
18 that Police Scotland were not in a position to make any
19 comments to the request as the matter was being
20 investigated by PIRC."

21 And you've explained to us earlier why:

22 "Dukurno said that making no comment could be viewed
23 with suspicion by the public. He suggested that it may
24 be prudent for Police Scotland to provide an account of
25 the role of the PIRC and the reason why Police Scotland

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1 cannot make any comments about the case to the media,
2 rather than having no dialogue with the press
3 whatsoever. Chief Inspector Shepherd said that she
4 would contact Corporate Communications to discuss this
5 matter further and that she would report this back to
6 the group at a later date.

7 "Sayed agreed that the public would benefit from
8 more information and asked whether the police were using
9 social media. Chief Inspector Shepherd said that at
10 both the national and local level the police were very
11 good at using social media, however were completely
12 restricted in posting using the medium in relation to
13 the death because the investigation was being conducted
14 by the PIRC.

15 "Dukurno mentioned that it may be useful if the
16 Police Federation made a further statement covering the
17 role of the PIRC and the reason that Police Scotland
18 could not comment about the investigation. He went on
19 to remark that it was important that the police officers
20 working in the community were briefed in relation to
21 what they could say when asked.

22 Chief Inspector Shepherd said that she would contact
23 PIRC in relation to a form of words that could be used
24 in such situations."

25 So again, do we see the same frustrations being

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1 on 3 May. It's a draft, I understand, and it reads as
2 follows:

3 "Death in police custody, Kirkcaldy.

4 "At around 7 am this morning (Sunday May 3rd) police
5 in Kirkcaldy responded to a number of calls from members
6 of the public reporting a man brandishing a knife in the
7 Hayfield Road area.

8 "On arrival the officers encountered the man and
9 whilst attempting to apprehend him he lost consciousness
10 and a female officer also sustained a head injury.

11 "Police officers commenced first aid procedures and
12 the man was taken to Victoria Hospital by the Scottish
13 Ambulance Service, where he sadly died. The female
14 officer was also taken to hospital, and she has now been
15 released.

16 "Divisional Commander Chief Superintendent
17 Garry McEwan said: 'This is a tragic set of
18 circumstances and my condolences go to the man's family.
19 We currently have officers with them to provide
20 information and support where appropriate.

21 "'We recognise that this is an extremely difficult
22 and distressing time for both the family and the
23 officers involved and I have instigated the necessary
24 post-incident procedures.

25 "'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 ...

23 "'This is a tragic set of circumstances and my
24 condolences go to the man's family. Police Scotland is
25 co-operating with PIRC' or something of that nature.

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1 and this has been sent to you, and it reads:

2 "Death in police custody, Kirkcaldy.

3 "Statement from Police Investigations & Review
4 Commissioner.

5 "A PIRC spokeswoman said 'The Crown Office and
6 Procurator Fiscal Service has directed the Police
7 Investigations & Review Commissioner to investigate
8 circumstances surrounding the death of a 31-year old
9 male on 3 May 2015 in the Kirkcaldy area who had been
10 detained by the police shortly before his death.
11 A report on the PIRC's findings will be submitted to the
12 COPFS in due course. As this is a live investigation it
13 would be inappropriate to comment further at this
14 time'."

15 Then statement from Police Scotland:

16 "Fife Divisional Commander Chief Superintendent
17 Garry McEwan said 'This is a tragic set of circumstances
18 and my condolences go to the man's family. The
19 investigation of deaths in Scotland is the
20 responsibility of Crown Office and Procurator Fiscal
21 Service, who have instructed the Police Investigations &
22 Review Commissioner to lead on the enquiry.

23 "ENDS."

24 Then a note for guidance:

25 "While there was injury to a female officer, she did

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1 not suffer a stab wound."

2 So this appears to have been sent to you on 3 May.

3 Do you recall receiving this?

4 A. No, I actually think it looks like it's been sent from
5 me, just if you go back up to the top.

6 Q. Oh yes.

7 A. I think it's from --

8 Q. That's right, that's my mistake.

9 A. But in answer to your question, no, I don't recollect
10 that at all, I'm sorry.

11 Q. Okay.

12 So this is something you have sent to the Media
13 Edinburgh address which -- if we look at this alongside
14 the email chain that we looked at a moment ago --
15 appears to be the Crown Office address, and the text for
16 Police Scotland here is very similar to the text that
17 was approved by the Crown Office in the chain that we
18 read earlier.

19 So this perhaps has the hallmarks of being the final
20 release, but can you assist us with that at this
21 distance?

22 A. Sadly not. I really don't remember sending that, if I'm
23 going to be honest.

24 Q. All right.

25 You also said earlier in your evidence that you were

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1 keen to have words that could be circulated internally
2 amongst officers and we saw, when we looked at the
3 previous email chain, that the Crown Office had said:
4 no, this is too detailed to go into the public domain
5 but could be used internally.

6 Do you know whether a form of words such as those
7 that we saw in the previous email was perhaps circulated
8 internally to officers?

9 A. I don't know about what went out internally to staff.
10 It would -- there would be a record of that if it did.
11 What I'd said previously is that I was looking for
12 a form of words for elected members, so that initial
13 contact that I had --

14 Q. Yes.

15 A. -- you know, as far as I can recollect, it was something
16 that went to Crown for approval, you know, to make sure
17 that what I said, you know, was okay to be released.
18 Ordinarily, you know, if it's out in the public domain,
19 ie via the media, I would probably just reflect more or
20 less what was in that media statement. But I do have
21 recollections that there was PIRC approval for elected
22 members and it may or it would have coincided very, very
23 closely to what went out in the media.

24 Q. Perhaps I can help you with that. Can we have on
25 screen, please, PS05872. Now, this is a document which

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1 is undated and it's not clear whether it's a draft or
2 a final document, but it is headed up "Briefing note for
3 locally elected members". Let's have a look at this:

4 "Following an incident on Hayfield Road, Kirkcaldy
5 yesterday morning, Sunday 3 May 2015, resulting in the
6 death of a 31-year old male and injury to a female
7 officer, COPFS [Crown Office and Procurator Fiscal
8 Service] have instructed the PIRC [Police Investigations
9 & Review Commissioner] to lead on the investigation.
10 The officer was released after treatment at the
11 Victoria Hospital, Kirkcaldy.

12 "Following the events, there will be a notable
13 policing presence in the areas affected to provide
14 community reassurance.

15 "We would welcome your assistance in notifying us of
16 any community tensions or concerns notified to you.

17 "Although family are aware of the incident we are
18 not releasing the details of the male involved at this
19 time and support and information is being provided to
20 the family."

21 So do you remember this?

22 A. That will be what I was referring to.

23 Q. That will be --

24 A. Yeah.

25 Q. -- what you were referring to earlier. So this is the

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1 form of words that was approved for briefing the locally
2 elected members?

3 A. I think so, yeah, but generally that's what I expect --
4 what I generally recall with that conversation.

5 Q. And what are your views as to the level of detail
6 provided in this briefing note? Do you consider it was
7 sufficient for their purposes, sufficient to alleviate
8 the concerns and the frustrations that they had brought
9 to your door?

10 A. I think at that point, that was on 3 May, so that was
11 approved at that point. So for my purposes, that's what
12 was generally going out in the media. I felt for ...
13 those ... purposes at that point that it was sufficient.

14 Q. Okay.

15 A. Clearly we moved on from there.

16 Q. So this was on 3 May --

17 A. Yeah.

18 Q. -- and the concerns were a few days later.

19 A. Yeah.

20 Q. And we looked at those concerns, as reflected in the
21 minutes earlier on.

22 Can we return to the community impact assessment,
23 please. Can we go to page 17. We can see an update
24 from the Community Impact and Reassurance Group there at
25 2.30 on 27 May. If you stop there, please, the second

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1 paragraph beneath that heading says:

2 "DI Wilson said that the PIRC had been unable to
3 establish the religion of the deceased."

4 This is now 27 May and the update is that the PIRC
5 had been unable to establish the religion of the
6 deceased. Do you recall this at all?

7 A. No. It does confirm my recollection, though, that we
8 were -- you know, I was constantly trying to establish
9 that.

10 Q. We can move on to page 19, and we see that this is
11 an update following the meeting with lay advisers on
12 4 June, and if we go to the very bottom paragraph on
13 that page:

14 "Albeit the religion of the deceased and his family
15 is known, the exact denomination is unknown. Azmet said
16 that he would contact the Imam from the mosque to
17 establish this, so that the police had a further
18 understanding of denomination acustom."

19 So we're now into 4 June, that's a full month after
20 Sheku Bayoh's death, and it appears at this point in
21 time that you still do not have all of the information
22 that you were looking to, in terms of Mr Bayoh's faith
23 and that of his family. Is that correct?

24 A. Yeah, that is correct.

25 Q. Can we go to page 21. At the very bottom there is

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1 an update from a meeting with lay advisers on the 16th,
2 and you can see at the very bottom there:

3 "Neither adviser believed that at this stage there
4 was any need to reschedule any further meetings."

5 That brought their involvement, it seems, to
6 a conclusion, although beyond that -- there are just
7 a few pages left within the community impact
8 assessment -- we see a further update from the Community
9 Impact and Reassurance Group on 26 June, and there are
10 some details of discussions with politicians. There
11 don't seem to be any further records of meetings with
12 lay advisers, or indeed with elected members, or for
13 that matter with the Community Impact and Reassurance
14 Group.

15 A. I think there were, but not -- I wasn't involved with
16 them.

17 Q. I see.

18 A. I think, if you go forward, there's meetings right up
19 until 2 September.

20 Q. 2 September?

21 A. Just -- yeah, I've got the -- I wasn't in post then,
22 so ...

23 Q. Oh, I see, yes. You're quite right. Go to page 23,
24 please. Notwithstanding what was said at the last
25 meeting by the lay advisers, we see at the very bottom

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1 of page 23 that there was a further meeting with the lay
2 advisers, 2 September.

3 You said you weren't in post by that point in time?

4 A. No, I'd moved posts, I was no longer working in Fife at
5 that point.

6 Q. I see, all right. So at what point did your involvement
7 in the community impact assessment and related work come
8 to a conclusion?

9 A. When I moved post.

10 Q. Yes.

11 A. June or July. July, possibly, that year.

12 Q. Okay.

13 So you were involved, then, with the lay advisers
14 and the elected members and the Community Impact and
15 Reassurance Group between the May and June or July?

16 A. Yes.

17 Q. How helpful did you find the input of these external
18 advisers, the lay advisers, the elected members to be?

19 A. I felt they did the very best they could within,
20 you know, a very difficult operating environment,
21 because of what we could provide them. I found,
22 you know, their general advice, you know, helpful.
23 Helpful to, you know, test our thinking, you know, just
24 in terms of they came forward with "People are asking
25 about the independence of the PIRC, would it be

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1 beneficial if something could go out?" You know, these
2 are all reasonable, you know, things to ask and bring
3 into the conversation.

4 So I found their advice helpful, but they were
5 limited, I absolutely accept they were limited in what
6 they could provide, and maybe what they wanted to
7 provide and help us with.

8 Q. Neither of the lay advisers appointed were black or
9 African. Did that concern you at all in terms of their
10 lived experience and what they were able to bring to you
11 in terms of advice and guidance?

12 A. It didn't concern me, because they were coming in as
13 independent lay advisers, and that's -- that was the
14 role we were asking them to perform. So it was,
15 you know, I was -- the independence for me was the
16 important part.

17 Q. Looking back now, what do you think might have made
18 their job a little easier?

19 A. Information.

20 Q. Information?

21 A. And information about the family in particular and,
22 you know, the events so we could -- you know, so they
23 could be properly informed and, you know, fully bring
24 all the information and ability that they had. They
25 told me they felt curtailed, and I can understand why.

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1 Q. I'd like to look very, very briefly at two documents
2 related to the community impact assessment. The first
3 is PS06481. It's a diversity and engagement strategy.
4 We see here the front page which confirms that it
5 relates to Operation Birnie, which I think is the
6 codename for the investigation following the death of
7 Mr Bayoh.

8 Can we go to -- let's just look through this
9 document quickly, please. If we move on to the second
10 page, there's a little introduction, and the first
11 paragraph of that introduction again states that:

12 " ... at this stage, the ethnicity, faith and
13 cultural background of Mr Bayoh has not been confirmed.
14 The enquiry should be conducted with the diversity and
15 cultural needs of Mr Bayoh's immediate and extended
16 family and wider community at the heart of all that is
17 done."

18 The aims are set out. There is then a definition of
19 a critical incident at the bottom of the page, and you
20 explained to us yesterday your understanding of critical
21 incident, and it's defined here as:

22 "Any incident where the effectiveness of the police
23 response is likely to have a significant impact on the
24 victim, the family and/or the community."

25 A. Yeah.

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1 Q. Moving on to the third page, "Consultation and
2 engagement, independent advice", it records that:

3 "Independent advice at both critical and other
4 police incidents is well documented as being extremely
5 valuable and has become a moral duty developed by police
6 forces nationally since the MacPherson report into the
7 death of Stephen Lawrence in 1993.

8 "As such the use of Police Service of Scotland ...
9 lay advisers should be considered at regular stages of
10 Operation Birnie. Their role includes offering advice
11 and assistance from a lay perspective as well as
12 challenging and critiquing decisions and proposed
13 actions of the operation and acting as a 'critical
14 friend'. Once the ethnicity, faith, and other cultural
15 needs of the deceased and his family have been
16 confirmed, consideration should be given to ensuring
17 that the appropriate adviser is sought."

18 Let's start with that final sense:

19 "Once the ethnicity, faith, and other cultural needs
20 of the deceased and his family have been confirmed,
21 consideration should be given to ensuring that the
22 appropriate adviser is sought."

23 Going by the minutes of the various meetings you had
24 with elected members and lay advisers and the CIRG, my
25 understanding -- and you'll correct me if I'm wrong --

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1 is that throughout the period of time that you were
2 involved in community impact work, you didn't ever
3 receive confirmation as to at least the denomination of
4 Mr Bayoh's faith; is that right?

5 A. Yeah, I didn't have any information.

6 Q. No information.

7 And looking again at the top part of that paragraph,
8 where there's a discussion of the role of lay advisers:

9 "Their role includes offering advice and assistance
10 from a lay perspective as well as challenging and
11 critiquing decisions and proposed actions of the
12 operation and acting as a 'critical friend'."

13 Is that a role that the lay advisers were able to
14 fulfil in connection with this operation?

15 A. I think so.

16 Q. And to what extent were they able to challenge and
17 critique decisions and actions? Were they sighted on
18 decisions and actions? You explained that there was
19 information that wasn't available to them, but were they
20 involved in decision-making? Were they critiquing your
21 decision-making in some way?

22 A. I suppose if we reflect back to that point round about,
23 you know, information and our -- what I was reflecting
24 back to them was the fact that we weren't going out in
25 the public domain with any information. They clearly

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1 fifth page. My apologies. There we are.

2 "Specific community impact". There's a discussion
3 here of the local neighbourhood community, then the
4 Islamic community:

5 "The public and press interest may make links with
6 Bayoh's perceived ethnicity or religion, which in turn
7 has the potential to raise concerns within the
8 community. Consideration should be given to having
9 reassurance measures put in place specific to the
10 Islamic community and any place of worship in which the
11 subject was associated. Once the ethnicity and faith of
12 Bayoh and his family is confirmed, this should be
13 revisited and any interfaith tensions examined."

14 So again another reference to the need to confirm
15 his ethnicity and faith.

16 If we can look below that to "Police Community", and
17 you mentioned yesterday in your evidence seeing the
18 police as an independent unit, an independent community:

19 "Police Service of Scotland can be classed as
20 a community in itself and as such its staff should be
21 taken into consideration during the progress of this
22 strategy. It is important therefore that the relevant
23 staff associations are not only consulted but are
24 central to this strategy to ensure any officer or police
25 staff member is not adversely affected. Both SEMPER

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1 Q. If we have a brief look at it, it's got much in common
2 with the document we looked at a moment ago. There's
3 an introduction that gives some background information,
4 the aims of the Gold Groups are set out.

5 On to the second page, "Critical incident" is
6 described, "Diversity considerations", and then at the
7 bottom "Cultural awareness":

8 "At this time it is believed that although the
9 deceased has been identified as of the Muslim faith, it
10 is thought that he does not practice his religion but
11 that other members of the immediate family may be more
12 devout. Initial advice has been given in relation to
13 cultural awareness."

14 So this document appears to suggest that Mr Bayoh
15 was Muslim but perhaps not practising, but I understand
16 your evidence to be that that was never confirmed to you
17 in terms?

18 A. Not by the family, and I haven't seen that document --

19 Q. You haven't seen that before?

20 A. No.

21 Q. There's a final document I would like to draw your
22 attention to. I don't know whether it would be on the
23 playlist. If not, I can tell you the relevant -- read
24 out the relevant part. It's the forensic strategy
25 document. Possibly not.

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1 PS01298. So this is a document -- we've heard much
2 about this from Pat Campbell in recent days, and this is
3 a document which was prepared on 3 May in advance of
4 a meeting at about 4.45 in the afternoon.

5 Now, I don't think we have it, and that doesn't
6 matter -- you won't have seen it before, I don't think,
7 in any event -- but this is a document which I suppose
8 has been prepared by the investigation side of
9 Operation Birnie and, as I say, it was prepared on
10 3 May, and it records:

11 "Due to the religion of the deceased being
12 established as Muslim, this was to be considered in the
13 recovery phase and highlighted ... COPFS."

14 So it certainly appears from the face of this
15 document that the investigation side of the incident, or
16 Operation Birnie, had established by late afternoon on
17 3 May that Mr Bayoh was Muslim. But, if I understand
18 your evidence correctly, that information was never
19 conveyed to you officially or definitively from PIRC via
20 the MIT, in spite of a number of requests. Is that your
21 position?

22 A. Yeah.

23 Q. We'll move away from the community impact assessment
24 now, and in conclusion I want to ask you just a few
25 questions about training.

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1 Now, Police Scotland have helpfully provided your
2 full training record. You might not have had the chance
3 to pay it much attention but it's there and, if you
4 would find it helpful to do so, please do look at it.

5 I wonder if I can take you back to something you
6 said in your Inquiry statement, paragraph 54, because
7 I'm particularly interested in any training that you had
8 undergone that you found to be useful in the role that
9 you played in the aftermath of Mr Bayoh's death, so
10 equality and diversity training, anything of that sort.

11 You were asked in paragraph 54 about learning
12 lessons, and you said:

13 "I'm asked if I'm aware of any training run by
14 Police Scotland or sharing of information within
15 Police Scotland in terms of learning lessons from other
16 police forces. Yes, that's quite common and often comes
17 to light from reviews, inspections or incidents that
18 have occurred in other areas. I have attended many
19 inputs and courses over the years where external
20 speakers from other agencies or police forces have
21 shared their experience of dealing with crimes and
22 investigations. More often than not, this includes
23 lessons learned."

24 I'm interested to know whether you ever attended
25 a lessons learned input following a death in custody?

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- 1 A. (Pause). Not that I can recall specifically.
- 2 Q. Or the death of a person from a black or ethnic minority
3 background?
- 4 A. So in terms of lessons learned, I would include it in
5 *Simplexity*, that's within the training record that I've
6 got in front of me. So that's that critical incident
7 management for -- that's been run for a number of years
8 across Police Scotland which deals with critical
9 incidents, and it also picks up aspects from
10 Stephen Lawrence and from Simon San Inquiries, so that
11 was very much the focus of that bit of training.
- 12 Q. I was going to ask you actually if you recalled the
13 publication of Lord MacPherson's report in 1999
14 following his investigation into the racist murder of
15 Stephen Lawrence? Because you have such length of
16 service --
- 17 A. Yeah.
- 18 Q. -- that you'd have been in service at the time, and do
19 you remember a lessons learned or training input
20 following the publication of that report?
- 21 A. Yeah, I mean, I think going right back to, you know, the
22 earlier part of my service in Fife Constabulary, there
23 was training post the release of the MacPherson report
24 in the early 2000s, and that was on -- all staff were
25 trained in equality and diversity. I think in Fife it

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1 was a two-day course that everybody attended,
2 I certainly did, and I suppose the -- you know, I've had
3 other training in between times on equality and
4 diversity as well, not necessarily always lessons
5 learned, sometimes just awareness --

6 Q. Certainly what you say, and let's go back to your
7 statement for a moment and then I'll invite your
8 comment, but at paragraph 55 you're asked about
9 Police Scotland's training on racial awareness and
10 equality and diversity:

11 "The amount of training will vary depending on
12 length of service, some would have more exposure than
13 others ..."

14 And you go on to say that equality and diversity is
15 threaded through the syllabus in many courses you have
16 been on, for example detective training:

17 "This has included inputs and live play exercises
18 specifically focused on investigations where equality
19 and diversity issues exist. Training for new recruits
20 at Scottish Police College includes racial awareness and
21 equality, diversity and inclusion. They are provided
22 with training from the very outset."

23 So in terms of the role that you were performing on
24 3 May 2015 and in the days and weeks that followed, what
25 training had you had that you felt equipped you well to

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1 (In the absence of the witness)

2 Rule 9 Application by MS MITCHELL

3 LORD BRACADALE: Ms Mitchell.

4 MS MITCHELL: Yes, the first issue I'd like to raise is
5 a matter which was missing from the witness's statement,
6 when she was asked about whether or not there was impact
7 and -- sorry, I'll start again. Whether or not, because
8 of the high profile nature of the enquiry, there were
9 features that made it high profile and would have
10 significant community impact. And she responded in her
11 Inquiry -- today, yesterday I think it was, saying:

12 "Answer: Yeah, it's clearly not in there but I knew
13 because the Chief Super had mentioned that the deceased
14 was black ..."

15 [Day 50, page 172, line 2]

16 What I would like to explore with this witness is:
17 why, if that was the case, that one of the issues was
18 the deceased was black, why wasn't that part of her
19 statement? Why didn't she set that out in the
20 reasoning?

21 And the reasoning for that is just to test why
22 something like that wouldn't be in there if it was
23 relevant? Was there any reluctance, for example, of the
24 witness to put that in as a reason and, if so, why?

25 That's the first issue.

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1 A number of issues then clump around what the family
2 was told in the meeting with Garry McEwan and
3 Nicola Shepherd. Firstly, on the issue of batons.

4 Earlier today at [draft] 60/14 she was asked:

5 "Question: Did you know at that point in time that
6 Mr Bayoh had been struck with batons?

7 "Answer: Not sure if I did.

8 "Question: Was that information shared with the
9 family?

10 "Answer: It's not documented there, no.

11 "Question: That note documents batons being
12 withdrawn, but there's no reference to baton strike."

13 [Day 51, page 65, line 22]

14 Now, what I would like to do is take this witness to
15 the two Gold Group meetings which she'd previously
16 attended which set out the background as then it was
17 known, albeit sort of incorrectly, about the involvement
18 of batons and the police.

19 The next thing relates to the post-mortem. She was
20 asked, and this is at [draft] 76:

21 "Question: During this meeting were there any
22 discussions about the upcoming post-mortem?

23 "Answer: I don't recall them, and I haven't taken
24 notes of that, is probably what I would say.

25 "Question: So you don't recall any discussions

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1 around post-mortem?

2 "Answer: I don't now.

3 "Question: Do you recall there being any discussion
4 about identification of the body?

5 "Answer: Not now, I don't."

6 [Day 51, page 82, line 8]

7 What I would like to do is take this witness to the
8 Gold Group meetings on 3 May at 2015 hours, which was
9 essentially the report back of Garry McEwan as to what
10 was said at the meeting, which makes it clear that the
11 family -- indeed the word was used -- craved reassurance
12 about the post-mortem.

13 Finally in relation to the post-mortem, one of the
14 last documents we looked at, PS09169, said on its front
15 page, "I disclosed the second PM to advisers, requested
16 not to further disclose", and then I can't make it out,
17 and what I would like to ask this witness is: on what
18 basis was the post-mortem disclosed and why was it done,
19 from a policing perspective, with lay representatives?

20 Moving then on to the issue of the machete, the
21 Inquiry will know that clearly this is a matter of
22 contention as to what the family were told on the day.
23 This witness says in her statement:

24 "I wish to state that the only weapon I have ever
25 heard mentioned in relation to Mr Bayoh's death is

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1 a knife, no other weapon specific to this incident."

2 What I would like to do is go though with this
3 witness her attendance at Kirkcaldy Police Station, the
4 briefing that she was given by Garry McEwan when she
5 arrived, and in doing so show that Garry McEwan at the
6 same time was briefing other people, including
7 Conrad Trickett and the ACC, that in fact there was
8 a male with a machete in the street and -- even though
9 this is of course entirely incorrect -- briefing them
10 "Police attended male strikes one with a machete", and
11 to allow the witness to see if that is able to jog her
12 memory. I should say also Conrad Trickett confirmed in
13 his evidence that Chief Superintendent Garry McEwan gave
14 him that information.

15 Then I would like to ask about community
16 reassurance, in particular the issue about terrorism
17 related -- the question of whether or not the incident
18 was terrorism related.

19 The witness has made it clear that this was
20 something that she was being asked not only by the
21 people that she was meeting, the lay advisers, but also
22 by the police. She gave that as one of the reasons in
23 her answers. Having read back her answer,
24 unfortunately -- and it starts at [draft] 114/11 -- her
25 answer does not seem clear, other than -- her answer

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1 doesn't seem clear as to why she did not take active
2 steps, on hearing those questions they did ask, to do
3 something.

4 The answer that she's given is because PIRC were in
5 charge, but my question then for this witness would be:
6 okay, PIRC was in charge; why wasn't there some
7 communication, official communication with PIRC asking
8 them what the situation was?

9 The issue about whether or not this was a terrorist
10 related incident, and given the timing around which it
11 happened, was clearly a matter of significant importance
12 to the public and to the police, and as a result of that
13 I think that matter should be explored.

14 And just for sake of reference, it was earlier at
15 [draft] 115, line 10, where she said:

16 "Answer: Again, the point with CT, I think you
17 already highlighted it, it came through the staff as
18 well so it wasn't a singular group that were asking that
19 question and ultimately I wasn't in a position to answer
20 that, but I think it was becoming widely known in the
21 organisation that it had been asked, both with staff and
22 elected members, clearly."

23 [Day 51, page 124, line 15]

24 Moving then on, I would like to ask this witness
25 about lay advisers. The Inquiry has heard that she

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1 doubted that questions had been asked of her by the lay
2 adviser, and there is an entry at PS03139, at point 7,
3 which says:

4 "CIA review (CI Shepherd)."

5 Then it says:

6 "On 4/5/2015 [so that would be the next day] after
7 brief of lay adviser and elected representatives,
8 an agreement of forms of words has to be signed for
9 Police Scotland."

10 So that would tend to suggest that the person that
11 did speak to the lay adviser was this witness, and to
12 allow her the opportunity to consider that.

13 Finally moving on to the issue of race, although
14 there are one or two different things under that
15 heading. My learned friend took this witness to race
16 training, and what I would like to ask this witness is
17 whether or not any of the information that was given to
18 her by the person that was giving out advice on minority
19 groups and whether or not the information that was given
20 to her that day was already known to her.

21 We have a community, I suppose, the Muslim
22 community, the second largest in Scotland after the
23 Christian community, and these are things which are very
24 generic in their terms, and it would be interesting to
25 see, when we're probing whether or not this witness does

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1 have an understanding of these communities, which she
2 highlighted at the end was important to have, in her
3 role as SIO, whether or not she knew these sorts of
4 things in any event. So it was to ask her that.

5 One slight clarification, and I think it's just
6 clearing up the way she said it, at [draft] page 153,
7 line 4, it was put to the witness:

8 "Question: So this document appears to suggest that
9 Mr Bayoh was Muslim but perhaps not practising, but
10 I understand your evidence to be that that was never
11 confirmed to you in terms?

12 "Answer: Not by the family, and I haven't seen that
13 document --

14 [Day 51, page 165, line 18]

15 So what I would just like to make clear was that the
16 family was in fact not asked whether or not Mr Bayoh was
17 practising.

18 Those are my questions.

19 LORD BRACADALE: Just going back to the second last one, I'm
20 not sure I understood the point.

21 MS MITCHELL: Oh, sorry. Is it the race training one?

22 LORD BRACADALE: Yes, it's the race training one. Can you
23 just tell me a bit more about that?

24 MS MITCHELL: Yes. What this witness has said -- at the end
25 of her evidence, in fact, if we scroll back up -- she

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1 was asked whether or not she's been able to put her race
2 training, equality, diversity into practice and how that
3 works; and she explained it was important to her in her
4 various roles that she's taken and why she needs to know
5 about that as an SIO investigating crime, dealing with
6 trafficking victims, et cetera. And what I would like
7 to explore with this witness were the advice that she
8 was given by -- I can't remember the lady's surname,
9 Gillian ...

10 LORD BRACADALE: Boulton.

11 MS MITCHELL: Boulton, thank you. Gillian Boulton. Was
12 that advice that she was given, this very basic generic
13 advice in relation to Muslims, something that was
14 already known to her at that stage in her career? Just
15 to test to see what the level of training had with this
16 witness.

17 LORD BRACADALE: Thank you.

18 Now, you can return to your seat, please,
19 Ms Mitchell.

20 MS MITCHELL: I'm obliged.

21 LORD BRACADALE: Mr Henry.

22 Rule 9 Application by MR HENRY

23 LORD BRACADALE: Yes.

24 MR HENRY: Thank you, sir. There are two issues which
25 I would wish to raise with the witness.

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1 The first refers to the minutes of the lay advisers
2 subgroup meeting on 22 May 2015, which is document
3 PS08934. Sir, there is an entry on the second page of
4 that document, at the second full paragraph, where it's
5 stated that:

6 "Mr Sayed, one of the lay advisers, had gone on to
7 say that he had links to the African community in
8 Glasgow, and that certain sections of that community
9 were concerned that the police had done something
10 wrong."

11 So I would wish to ask the witness what she
12 understood the concerns of the African community to be
13 and what steps, if any, were taken to address those
14 concerns of that community.

15 The second matter that I would wish to address, sir,
16 is: more generally, there has been a great deal of
17 evidence before the Inquiry from this witness and to
18 this witness in relation to steps taken to address
19 concerns and the impact on the Muslim or Islamic
20 community.

21 I would wish to ask questions of this witness, sir,
22 about whether she considered that sufficient focus was
23 placed on any concerns that the black or African
24 communities may have, separately to concerns held by the
25 Muslim community; whether she understands whether those

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1 communities may have additional or separate concerns
2 about the death of a man following an incident with
3 police; and whether she considers that there was
4 sufficient focus on the matter of race or ethnicity, as
5 opposed to religion, in the equality and diversity
6 considerations.

7 LORD BRACADALE: Thank you. Please return to your seat.

8 I'll consider these submissions overnight. If you
9 can bring the witness back in, I'll explain to her
10 she'll need to come back.

11 (In the presence of the witness)

12 LORD BRACADALE: Superintendent Shepherd, there may be some
13 further questions for you, which we will deal with
14 tomorrow morning. So if you could return for 10 o'clock
15 tomorrow morning.

16 (4.11 pm)

17 (The hearing adjourned until 10 am
18 on Friday, 17 March 2023)

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