

Transcript of the Sheku Bayoh Inquiry

Thursday, 2 March 2023

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(10.01 am)

DI COLIN ROBSON (continued)

Questions from MS GRAHAME (continued)

LORD BRACADALE: Ms Grahame.

MS GRAHAME: Thank you. Good morning.

A. Morning.

Q. Yesterday we had just finished talking about identification and I would like to ask you just a few more questions about that today.

Just to recap, we had been talking about the events in the morning on 3 May 2015 and at that stage there was an unknown male, an unknown black male in Victoria Hospital. Both DS Dursley gave evidence and you gave evidence yesterday that identification at that stage was a priority, so you didn't know at that stage who the man in the hospital was?

A. Correct.

Q. You talked about I think both of you recognising, in the morning when you were sharing a room, that there may be a link or a connection with the call from Colette Bell, that she had made a call to the police and she had talked about her partner not being at home, she had had a call from a friend about her partner acting bizarrely. I think you talked about you were aware that there had

Transcript of the Sheku Bayoh Inquiry

1 been a number of telephone calls from members of the
2 public about someone acting strangely near Hendry Road.
3 The locations of those two properties, of Hayfield Road,
4 Hendry Road and the address of Colette Bell were quite
5 similar and you were aware of all of that?

6 A. Yes.

7 Q. So both of you, you and DS Dursley, made that possible
8 or potential connection there?

9 A. (Nods).

10 Q. I think you had talked -- we heard evidence that
11 Colette Bell had talked about her house being trashed
12 and then we heard evidence from DS Dursley that there
13 was mention by Colette Bell of a gold mobile phone?

14 A. Correct.

15 Q. Were you aware that there had been mention of a gold
16 mobile phone?

17 A. Yes, there definitely was. At what point in the
18 proceedings, I'm unsure.

19 Q. We had heard evidence from DS Dursley -- and this was
20 something he had noted in his daybook, that information
21 he had received from Mitchell and Parker when they went
22 to the home of Colette Bell, and that he had noted that
23 in his daybook, so that's something you were also aware
24 of roughly --

25 A. Yes.

Transcript of the Sheku Bayoh Inquiry

1 Q. -- in the morning anyway. Just to be clear about the
2 sort of steps that police officers can take when they
3 have an unknown person and they're trying to identify
4 that person, so we heard from DS Dursley that he had
5 obviously sent officers to Colette Bell's house, we
6 heard from DS Dursley that he had asked a member of
7 staff to do searches on a CHS system?

8 A. Criminal history system, yes, that's our police system.

9 Q. And we talked yesterday about the social media, the use
10 of social media and the checks that were done, I think
11 on Facebook.

12 What other steps can police officers take if they're
13 trying to identify an unknown person?

14 A. If we're thinking of somebody that's not able to tell us
15 their identity, there may be items in their possession
16 that gives an indication, so photographic
17 identification, a driving licence, any other personal
18 effects. But also as part of those checks on police
19 systems, if they are known to the police in terms of any
20 previous episode we could sometimes record marks, scars,
21 tattoos, that's another searchable function in terms of
22 attempting to identify a person.

23 Q. We heard from DS Dursley that at some point -- he
24 couldn't give us an exact time, but at some point during
25 the morning he was advised that a gold mobile phone had

Transcript of the Sheku Bayoh Inquiry

- 1 been found at the scene in Hayfield Road. Was that
2 something that you were aware of?
- 3 A. Yes, I think at that time, and even prior to me
4 contacting DS Dursley, my conversations with
5 DS Davidson, our focus at that time was: who is this
6 man? And I think the discussions at that time -- I'm
7 unsure if there was any custody search of clothing for
8 those personal effects or identification, but I recall
9 the only item that possibly could identify him was his
10 phone. It was significant in terms of the colour, but
11 also potentially to use that phone to try and identify
12 the person as well, in terms of if it was unlocked,
13 through phone numbers to make contact with a friend or
14 a contact number on that.
- 15 Q. And so the colour of the phone, without even accessing
16 it in any way, was that something else that provided
17 a possible connection to other information you had?
- 18 A. It being a bit more distinctive than just a normal
19 phone.
- 20 Q. Were gold phones common in those days?
- 21 A. I don't think so -- well, I couldn't tell you. Uncommon
22 to me.
- 23 Q. Uncommon to you?
- 24 A. Yes.
- 25 Q. And then we may also be aware of things like dental

Transcript of the Sheku Bayoh Inquiry

1 records that can be recovered. Is that something that
2 police officers can do?

3 A. That would probably be into the post-mortem phases, so
4 again there have been circumstances that we have tried
5 all those efforts and enquiries to identify, again is
6 that person as well visually identifiable? If they're
7 not we may have to go down the forensic route in terms
8 of DNA, or odontology in terms of the dental records.

9 Q. How long would that type of thing take in Kirkcaldy in
10 2015, if you did have to go down that route?

11 A. It wouldn't be our responsibility, it would be in
12 consultation with Procurator Fiscal in terms of having
13 primacy for death investigations in Scotland.

14 Q. Would that take longer in terms of getting DNA and maybe
15 dental records?

16 A. Definitely because it's a process. You would have to
17 obviously identify the professionals who would conduct
18 that and in terms of their specialism -- I don't know
19 how long it takes to return those results. Not
20 instantaneously is what I would say.

21 Q. And you have mentioned the Fiscal, what sort of
22 assistance can the Fiscal provide officers in relation
23 to maybe assessing identification or getting
24 identification?

25 A. I'm not sure they would assist with identification, but

Transcript of the Sheku Bayoh Inquiry

1 obviously we would consult them, them having primacy for
2 deaths, in terms of potentially our challenges and what
3 efforts we had done to try and identify and then
4 thereafter they may have to consider what needs to take
5 place potentially during either pre-post-mortem or
6 post-mortem.

7 Q. So it's open to officers in 2015 to liaise with the
8 Fiscal --

9 A. Yes.

10 Q. -- in relation to ID?

11 A. Yes.

12 Q. We may be hearing evidence at a later hearing from
13 a David Green, who was in Crown Office, who was
14 a Fiscal. Were you aware of David Green's
15 involvement --

16 A. I think he was head of fatalities in Scotland at that
17 time.

18 Q. We may be hearing that -- we may hear evidence from
19 Mr Green in connection with that. Is identification
20 something he could perhaps assist us with as well?

21 A. It would be but prior to even contacting him we would do
22 everything within our power to try and give -- identify
23 as best we can, to demonstrate the efforts that we had
24 went to, either to indicate this was the person, or if
25 we then couldn't, we would obviously look for that

Transcript of the Sheku Bayoh Inquiry

- 1 consultation or the next steps.
- 2 Q. You're doing your best to gather in as much information
- 3 before you would bother the Fiscal --
- 4 A. That's correct.
- 5 Q. -- or ask him for guidance or advice?
- 6 A. They would be notified of the circumstances at an early
- 7 stage, I would imagine, but potentially not specifically
- 8 about the identification, if it were posing a problem.
- 9 Q. I have asked you about the mobile phone. Were you aware
- 10 of any officers who had attended at Colette Bell's house
- 11 maybe recognising a photograph of Mr Bayoh in the house?
- 12 A. I'm unsure of that. Obviously when you refer to
- 13 officers it could only have been one of the three
- 14 constables that were deployed.
- 15 Q. Well, there was Parker, Mitchell and Clayton?
- 16 A. Clayton, yes.
- 17 Q. And we obviously have a number of statements, both
- 18 DC Parker and DS Mitchell have given evidence and they
- 19 have given evidence about a number of statements they
- 20 have given to PIRC and self-penned operational
- 21 statements, and there may have been part of that -- it's
- 22 available for the Chair -- part of that might be that
- 23 I think from memory Clayton had maybe recognised
- 24 a photograph on the fridge?
- 25 A. I take it is that retrospectively in terms of

Transcript of the Sheku Bayoh Inquiry

1 recognised, in terms of --

2 Q. When they were at the house of Colette Bell?

3 A. So there was a photo, I take it. Has he made that link

4 after?

5 Q. No, he recognised, as I understand it, the photograph on

6 the fridge as somebody he had gone to the gym with?

7 A. Oh, right, okay. I didn't realise if there was

8 a personal connection. I don't recall that.

9 Q. Was that something you were aware of at the time?

10 A. No.

11 Q. But maybe subsequently that was -- that's the type of

12 information you're looking to gather in about

13 identification?

14 A. Yes, yes, we definitely would consider any eventuality

15 at that time, with the main purpose of trying to provide

16 identification.

17 Q. Can I ask you again to look at your first Inquiry

18 statement please, SBPI 00133, and if we could look at

19 paragraph 105. That's that on the screen. Just to

20 explain, this is in a series of paragraphs that relate

21 to when you're back at Kirkcaldy Police Office, you have

22 been talking about the officers -- the attending

23 officers had gone to the canteen and you're talking

24 about the situation that arose at that time, that's in

25 the morning. You have been asked a number of questions

Transcript of the Sheku Bayoh Inquiry

1 about various aspects of what was going on in the
2 canteen, and at 105 you say:

3 "I think that probably led to some potential
4 miscommunication and delay in messages that we got. We
5 were pretty familiar to deal with these things. Yeah,
6 it wasn't great that was our own officers, but given the
7 experience across the board of the people dealing with
8 it, it was pretty routine. And I'm not being dismissive
9 of it, but it's process, procedures that were routine.
10 Once we've covered the bases and secured that, it's
11 easier then and it sets the tone, the foundations for
12 any investigations."

13 I'm hoping that you will be able to put this
14 paragraph into some context and explain to us what you
15 are talking about here?

16 A. I think maybe 104 helps lead into that potentially,
17 I don't know if there was a ...

18 Q. Yes, let's look at 104:

19 "We deal with the line management and rank
20 structure. What was conflated was the fact that PIRC
21 was a fairly new concept, basically, but about two years
22 old. So I hadn't been involved with anything with PIRC
23 because the original thing was stop, do nothing. That,
24 to me, had to be the conventional response to the
25 incident, and there was stuff that was already in train

Transcript of the Sheku Bayoh Inquiry

1 that just couldn't be stopped."

2 A. And leading into 105 I think it was from our experience
3 of all officers on that day we were pretty used to
4 dealing with death investigations in terms of each of
5 the elements and the processes involved with that.
6 I think I was trying to say with the involvement of then
7 the police contact it probably caused -- whether it was
8 certain angst or confusion, how we would deal with it,
9 but the reality is that we shouldn't have dealt with it
10 any differently. But at that time, in terms of the
11 briefing up, in terms of the senior officers with -- the
12 involvement with PIRC led to some obviously instruction
13 from them, whether it was regards to their intentions
14 and purpose, all of which we were kind of unaware of
15 because it was a new concept.

16 We were quite satisfied how we deal with this on
17 a daily basis without this new concept of the PIRC and
18 what they would bring to the investigation.

19 Q. So to what extent did the existence of PIRC cause issues
20 for the police that day?

21 A. It maybe led in terms of -- and I can only speak for
22 myself in terms of second-guessing my own actions and
23 decisions and balancing them. Again, is this something
24 in line with what PIRC's expectations, also senior
25 managers as well, because at that stage we were --

Transcript of the Sheku Bayoh Inquiry

1 I think as I detailed, my first entry in the daybook is
2 covering those basic strands for any investigation.
3 That sets the foundation for any investigation and sets
4 the tone of how it is progressed from there. If you
5 don't get the basics right at the time, then obviously
6 that can lead to potential problems in the future in
7 terms of investigation.

8 Q. And where you talk about, "The original thing was stop,
9 do nothing", what do you mean by that?

10 A. That was effectively the message, so in terms of the
11 kind of chronology and timeline -- and we discussed it
12 yesterday -- at the point I phone the detective super,
13 ordinarily I am briefing to him what's occurred, what
14 I have done, what I'm intending to do. Usually you get
15 some form of concurrence, approval that that is but with
16 potentially other considerations, given his experience
17 and oversight, and then we would normally just go and
18 proceed with that to then provide a further briefing at
19 a poignant point to update him on the progress of it.

20 Naturally with a police contact PIRC were going to
21 be informed. Whether they knew -- whether they had been
22 informed at that time but the message that's come back
23 seems to have been influenced by PIRC in that contact,
24 that was Detective Superintendent Campbell's role at the
25 time, and it was, "PIRC are coming to take over this, to

Transcript of the Sheku Bayoh Inquiry

1 ensure independence, transparency, we need to stop",
2 because obviously any further involvement by P Division
3 officers could affect the independence/transparency of
4 investigation. But in reality that wasn't possible.
5 There has to be some form of transition, hand over.
6 Again, we hadn't had that before so it was the unknown
7 and I think that probably caused us to give more thought
8 and over-engineer what was basic considerations and
9 decisions.

10 Q. So you had a normal way of dealing with things and
11 investigating an unexplained death, but because it was
12 officers involved, PIRC were going to come in?

13 A. The officers and also PIRC. Again we have had incidents
14 where officers potentially are involved previously, but
15 not maybe to the scale and the scrutiny that we thought
16 was going to come. Again, we didn't know because it was
17 an unknown entity at that time.

18 Q. So this situation with officers involved was unusual?

19 A. Yes.

20 Q. Never dealt with anything of that scale before?

21 A. No.

22 Q. And then having PIRC brought in to take over it, that
23 was unusual as well?

24 A. Yes.

25 Q. Was this the first time you were aware of it ever having

Transcript of the Sheku Bayoh Inquiry

1 been done, where PIRC came in to --

2 A. I think so, obviously from -- at the Fife divisional
3 perspective, yes. I'm unsure about the rest of
4 Scotland.

5 Q. And in here you seem to be saying, "The original thing
6 was just stop and do nothing".

7 A. We had already responded, we were public-facing.
8 There's an expectation, as there are every day, for
9 the police to respond and act, so we couldn't just walk
10 away. We had already engaged witnesses, I just -- it
11 was the -- it smacked as the kind of potentially
12 process, whether PIRC had guidance at that time versus
13 what was the right thing to do, so I knew there would be
14 involvement, a handover at some point, not to stop
15 seemed to be the initial message.

16 Q. Was there any indication at that stage how long you were
17 supposed to be stopping doing anything for?

18 A. No.

19 Q. And you have indicated you are police officers. How did
20 you feel about the instruction to stop what you were
21 doing?

22 A. Again, because we were used to and had the experience of
23 dealing with these matters, to suddenly have -- and it's
24 not about a control thing, but we are responsible and
25 again my job, end of the day, trying to lead police

Transcript of the Sheku Bayoh Inquiry

1 officers to the best of my ability is being -- by no
2 means it was being undermined, it just conflicted
3 against what was the right thing to do. And even if
4 that -- the stop isn't accurate, and that's just my
5 interpretation and understanding of it, even some form
6 of arrangement that potentially wouldn't start a new
7 line of enquiry, that would maybe just consolidate and
8 secure what we had, that seemed to be the common sense
9 because at that time we had more than enough to be
10 getting on with, with the resource that we had.

11 Q. When did you hear this original thing that was to stop?
12 When were you told that was --

13 A. It was -- it wasn't in the early conversations with
14 Detective Super Campbell because that was more briefing
15 on the circumstances. He has naturally, I assume, went
16 away, briefed up again and then, I don't know, you would
17 be able to tell what time PIRC were -- so again, was
18 this Detective Super Campbell's opinion about what would
19 happen, or was that influenced by PIRC, I don't know,
20 but it was definitely roundabout the time that I was
21 starting to brief DS Dursley and the DCs in terms of
22 deploying, to carry out actions.

23 Q. We looked at the spreadsheet, the combined audio and
24 visual timeline yesterday, and we looked at the Airwaves
25 transmission, where you said you were going to be

Transcript of the Sheku Bayoh Inquiry

1 contacting the detective superintendent. Was it shortly
2 after that period that you were --

3 A. It would definitely be between that and the time that
4 I have -- having returned to the station along with the
5 officers that are in the canteen, it was definitely
6 roundabout that time because there was also instructions
7 in terms of how they would wish the officers dealt with
8 as well.

9 Q. So if it -- let me just -- the call that we looked at
10 yesterday was on the final page of the spreadsheet, 16,
11 and that's at the very top of page 16 of the

12 10:21:46 12 spreadsheet, so this is 07:43:05 and this is you:

13 "Just for the call card, DS Dursley from Levenmouth
14 is arranging a CID resource from division to attend at
15 Kirkcaldy Police Station in relation to the aspect of
16 the investigation. Chief Inspector Stones updated and
17 is going to contact the on call Super."

18 Who we know was Pat Campbell?

19 A. Yes.

20 Q. And you said that Kirkcaldy Police Office wasn't far
21 from Hayfield Road and you had travelled thereafter you
22 left the scene.

23 A. Yes.

24 Q. I don't think you were able to give us an exact time
25 that you arrived at Kirkcaldy yesterday.

Transcript of the Sheku Bayoh Inquiry

1 A. No, it was definitely -- so from that transmission to
2 then I was definitely in the police station when I knew
3 about when Mr Bayoh had been declared dead, so you're
4 talking within the space of an hour in terms of initial
5 phone calls and we obviously talked about the frequency
6 of them, rightly so, it was within -- definitely within
7 that period, probably towards the end of that hour as
8 opposed to the start of it.

9 Q. So within that hour you're aware at that stage that PIRC
10 are going to be brought in and they are going to be
11 taking over the investigation?

12 A. Yes.

13 Q. And what you say here in this paragraph:

14 "... hadn't been involved with anything with PIRC
15 because the original thing was stop, do nothing."

16 So you were aware within that hour --

17 A. Yes.

18 Q. -- that really you were to leave it all to PIRC?

19 A. And then I think it was -- and again, further
20 discussions will play out in terms of PIRC. Again,
21 I don't know the available resource that they had at
22 that time again to try and demonstrate the
23 independence/transparency that seemed to move to
24 P Division officers were no longer going to be involved,
25 that they were going to look for support from our Major

Transcript of the Sheku Bayoh Inquiry

1 Investigation Team.

2 Q. So they were going to remove P Division officers?

3 A. Yes.

4 Q. Who had -- it was P Division that were -- the response
5 team were in P Division?

6 A. Yes.

7 Q. And they were the responding officers, the attending
8 officers at Hayfield Road?

9 A. That's correct.

10 Q. So they were going to remove P Division's involvement at
11 all?

12 A. Anything that extended to me and the other colleagues
13 that I have outlined as well.

14 Q. So that there was that independence and transparency?

15 A. Yes.

16 Q. And in turn you have said the Major Incident Team were
17 going to be brought in instead?

18 A. Yes.

19 Q. Are they separate from the CID line management?

20 A. So they're a national function that are located at --
21 regionally effectively across Scotland.

22 Q. We have heard some people call them MIT?

23 A. Yes.

24 Q. They were going to be brought in. Now, the other
25 officers that -- we heard evidence from DS Dursley that

Transcript of the Sheku Bayoh Inquiry

1 a number of officers were brought in. He had a list in
2 his daybook. He didn't know who they were but they had
3 been brought in from different areas. Some were from
4 other offices in Fife. Were they part of P Division as
5 well? Were they going to be excluded, or -- how was it
6 going to work with MIT coming in?

7 A. Again, I think it was to demonstrate -- and I don't know
8 obviously the kind of capacity of PIRC at that time in
9 terms of their investigative ability, but in terms of
10 the resources that they had, so I think it had been
11 agreed to negotiate that again to best demonstrate that
12 independence we would use officers definitely not
13 involved -- that were on duty of that morning in
14 Kirkcaldy and directly involved.

15 Perhaps we had to at that time, owing to
16 availability, the resources used officers from elsewhere
17 in the division on that day, I'm unsure of it. But I do
18 think -- and I don't recall seeing anybody else that
19 I was familiar with, that it was officers from the MIT.
20 I think there were officers from Edinburgh, I think they
21 were the first to come across, again just probably
22 because of the location.

23 Q. There was a reference I think in DS Dursley's daybook to
24 officers from the Lothians, that would be Edinburgh?

25 A. Yes, an Edinburgh division, yes, but whether they were

Transcript of the Sheku Bayoh Inquiry

1 part of the MIT or Edinburgh division, I can't be clear.

2 Q. So who was responsible for trying to have a dividing
3 line, if you like, between the Kirkcaldy officers, the
4 P Division officers, the MIT officers; who was in charge
5 of that?

6 A. So undoubtedly until Detective Super Campbell it would
7 be me. I think we had again negotiated/agreed that for
8 the officers that were already engaged with some of the
9 enquiries they would continue with that because again
10 without that we wouldn't be able to gain the information
11 that we needed to help inform and build the timeline of
12 events.

13 Again, they didn't come -- it took some time for
14 them to travel, I would imagine. Whether they were even
15 on duty at the time, I don't know. So really
16 I didn't -- I never gave a further briefing to the
17 additional staff and directed, we pretty much
18 consolidated what we were already doing. We obviously
19 heard from DS Dursley in terms of the three DCs he
20 deployed which were more or less then picking up
21 Colette Bell. Plus I explained about DS Davidson and
22 DC Connell, more in terms of the locus and the hospital,
23 Mr Bayoh. So we didn't really kick off or commence any
24 further strand of the investigation and I certainly
25 didn't allocate any real actions after that in terms of

Transcript of the Sheku Bayoh Inquiry

1 the deployment of staff.

2 Q. So things you had already started, the visit to
3 Colette Bell by Mitchell and Parker and Clayton, the
4 locus protection measures that were being carried out at
5 Hayfield Road involving Davidson and Connell, and then
6 subsequent work done on identification at
7 Victoria Hospital, these things had been put in play
8 already.

9 A. Yes.

10 Q. You continued with those items of work?

11 A. Because they were crucial.

12 Q. They were crucial. You said things were a priority, ID
13 was a priority?

14 A. Mm-hm.

15 Q. And they continued to have officers from P Division
16 working within them?

17 A. Yes.

18 Q. As well as others such as Mitchell and Parker --

19 A. That's correct.

20 Q. -- who had come to the area? Any other particular
21 avenues that you were exploring at that time which you
22 continued to do?

23 A. That was more -- it is the officers that had obviously
24 been brought back to the police station. That up until
25 the first Gold Group at 11.30 pretty much consumed me in

Transcript of the Sheku Bayoh Inquiry

- 1 terms of all those -- trying to coordinate all those
2 elements and get the best possible picture so that
3 I obviously could brief that first Gold Group.
- 4 Q. So we have heard other evidence that the officers were
5 brought back to the canteen at Kirkcaldy.
- 6 A. Yes.
- 7 Q. And that was dealt with in the morning in the normal
8 way?
- 9 A. (Nods).
- 10 Q. Anything else you can think of now that you just
11 continued to build on and you didn't stop?
- 12 A. I know -- and obviously I've got the name written down
13 there in terms of other witnesses. I don't recall it,
14 but I know that DS Dursley maybe used resources to
15 facilitate that in terms of tracing Martyn Dick and
16 Zahid Saeed because that information had come from
17 Colette, so again we would be wanting to build on that
18 timeline of the precursor to obviously the Hayfield Road
19 incident.
- 20 Q. So you continued to trace Martyn Dick and Zahid Saeed?
- 21 A. Yes, in terms of being a witness. And in terms of
22 Zahid, Zahid was to be the witness and the welfare
23 element, knowing that Colette Bell's initial information
24 about the form of altercation between him and Mr Bayoh.
- 25 Q. Right, so that work continued with yourself in charge --

Transcript of the Sheku Bayoh Inquiry

- 1 A. Yes.
- 2 Q. -- and some officers from P Division, some officers from
3 other areas?
- 4 A. That's right and I think by that time, as I explained,
5 obviously the role between me and the PIO we would be
6 getting some form of uniform support as well, one to
7 continue to police -- respond and police Kirkcaldy, and
8 potentially with the locus protection and initial
9 door-to-door perhaps.
- 10 Q. So there was initial door-to-door at Hayfield Road or in
11 that area as well?
- 12 A. In the immediate vicinity that we looked to capture at
13 an early stage, yes.
- 14 Q. And yesterday you mentioned CCTV, looking for that. Was
15 that something you continued with?
- 16 A. Definitely. Mainly from the kind of nucleus of
17 Hayfield Road. I think I mentioned about the TSU for
18 the van. To be honest, I think without having to go to
19 the addresses that naturally because of the police
20 presence and situation that I think occupants from the
21 houses on Hayfield Road had approached the police.
- 22 Q. Could we have a brief look at your daybook again because
23 you will remember yesterday you told us about page 1 and
24 you talked about some generic topics, if I can call it
25 that, or areas of investigation.

Transcript of the Sheku Bayoh Inquiry

1 A. Investigative strands.

2 Q. Maybe just very quickly if you could go through those
3 and tell us which ones you had started and continued
4 until the handover.

5 A. As I say, these collectively were discussed with me and
6 DS Dursley for the available resource, so I think
7 I mentioned yesterday the TSU in terms of CCTV in the
8 van, and again as I think we learned potentially it
9 hadn't been working, but I think we thought, "Well,
10 until the TSU comes out we were the Technical Support
11 Unit", it may be the case it's not visible but it may
12 have been recording in the background so we wanted to --
13 so they were contacted for that.

14 Whether they deployed on that day I couldn't tell
15 you, but we secured the van as part of the locus
16 protection measures in any case so that wasn't going
17 anywhere.

18 The deceased, in terms of the identification and
19 stuff like medical, next of kin was all these checks
20 that we would look to again with a view to
21 identification.

22 The locus, again we talked about putting the
23 measures in place there with the provision of~...

24 360 photos is the same, it would be a scene of crime
25 officer to come and capture the scene as is. It's

Transcript of the Sheku Bayoh Inquiry

1 fairly routine as well, especially when we look to hold
2 a forensic strategy and how we will coordinate and how
3 we will examine that scene. That is usually capture --
4 again, best practice or helpful that if we capture that
5 prior to any forensic strategy, that imagery can be
6 played to the specialists in the room, which obviously
7 vary in terms of how best we will try and capture the
8 evidence at that scene.

9 Zahid Saeed, as I said, definitely me and DS Dursley
10 talked about trying to contact him from a welfare
11 perspective and as a witness because he had been
12 introduced by Colette Bell.

13 In terms of Martyn Dick, with regards to Mr Bayoh
14 being in his house the previous evening into the early
15 hours, I think. I apologise for my scribbles after that
16 that I can't make out.

17 The house-house parameters, so that's more a jag(?)
18 to what are the house-house parameters. There would be
19 the initial ones in terms of any house/premises that is
20 in direct eyesight of the location, again with a view to
21 identifying witnesses. That would probably
22 encapsulate -- include CCTV as well because of the
23 technology and -- obviously no Ring doorbells then but
24 private CCTV, that would be incorporated as part of
25 that.

Transcript of the Sheku Bayoh Inquiry

1 Intel profiles would probably relate to any person
2 we encountered as a witness in building that picture,
3 and the CCTV survey again is a specialism, it's a role
4 for someone to deploy and identify and capture any CCTV
5 opportunities within that area, or any associated area.

6 Q. Just to go back for a moment, you have told us about the
7 involvement of PIRC and the original thing being
8 essentially stop. Who was it that told you that PIRC
9 would be taking over the investigation?

10 A. Detective Super Pat Campbell.

11 Q. Did he instruct you or order you to stop the
12 investigation?

13 A. There was never an instruction because -- well, if it
14 was we went against instruction because we continued.
15 It definitely appeared that he had had some form of
16 conversation, he could probably tell you whether it was
17 directly with PIRC or some other senior officer, and it
18 was more the ask or intention that we try and stop and
19 preserve what we've got, with the intention of them
20 coming in. But the concept of that is great, the
21 reality was completely different.

22 Q. And knowing that PIRC are coming in to take over and you
23 have basically to preserve what you have done, you
24 didn't simply preserve it, you carried on the
25 investigation, but what impact did it have on you and

Transcript of the Sheku Bayoh Inquiry

1 the steps you took knowing that any moment PIRC could
2 come in and take over?

3 A. It did feel -- well, we knew the spotlight was on --
4 well, I put the spotlight on myself in any case in terms
5 of the -- what we were there to do. It seemed to
6 detract for a brief period of time of our purpose and
7 role of being the police on that day, a bit of
8 second-guessing, a bit of angst probably in terms of,
9 "Am I doing the right thing?" But that didn't last
10 long. I think it was probably that contact with
11 DS Dursley when I did eventually make contact to go,
12 "Right, what are we trying to achieve here? Let's try
13 and bring it back to the basics", as I discussed.

14 By that time I had had the conversation with
15 Detective Super Campbell and more or less negotiated to
16 say, "Look, we're involved in this, it makes sense that
17 we progress, mainly to help build that picture", with
18 a view to at a poignant time handing over to PIRC. And
19 I assumed he agreed and again there were obviously
20 discussions about other elements that there seemed to be
21 another instruction, maybe an ask or something that was
22 influenced for our consideration.

23 Q. Right. Did you have a discussion with Detective
24 Superintendent Campbell in person about this matter or
25 over the phone?

Transcript of the Sheku Bayoh Inquiry

- 1 A. No, it was all on the phone, again just with the
2 logistics. I know he was based in the kind of east of
3 Scotland at that time and kind of Borders division,
4 Lothian and Borders division, but I assumed he was at
5 his home address which was in the west of Scotland, so
6 there would obviously be time for him and travel and
7 I think I recall the times I spoke to him he was
8 probably in the car on his way through.
- 9 Q. What time in the morning did you have this discussion
10 with him about PIRC being involved?
- 11 A. I think I had maybe discussed it was -- the first call
12 would be --
- 13 Q. Was it just shortly -- the first call that you had with
14 him --
- 15 A. So the first call -- so they were all a series of phone
16 calls from the first notification to him to what we had
17 and what information was to hand at that time, and then
18 probably my plan supplemented by anything else he wanted
19 me to push to consider that time. That to then proceed
20 with that and I think the calls were thick and fast
21 thereafter.
- 22 Q. So you made it clear to him you were going to carry on
23 and as far as you were aware he was happy with that
24 arrangement?
- 25 A. Yes, I think it gave that -- I won't say sound board,

Transcript of the Sheku Bayoh Inquiry

1 but it was justification/rationale of: here is what we
2 have been asked to do and I can't recall -- and for to
3 me to go back to me on the ground -- and it happens
4 there every day that this wasn't there to kind of
5 pressure test our plans and for us to -- it's not to
6 defend them by any means. It's just saying this is my
7 thinking, this is what I'm hoping to achieve by that, in
8 the hope -- really the concept of the decision-making
9 model which we had adopted in Police Scotland at that
10 time.

11 Q. What were the benefits of the approach you took, you
12 being continuing to be involved with the strands,
13 investigative strands that you have talked about?

14 A. 1, building that picture, building the information so
15 that any -- at the outset of any incident/crime you're
16 in the information gathering stage. If we stop, that
17 information doesn't get gathered, so when -- if PIRC
18 attend I'm not really telling them as much as I could
19 have. And, secondly, perceptions in that -- from every
20 angle, perceptions of the officers that I'm trying to
21 lead on that day: Mr Bayoh, friends, family, public.
22 Again, we're there to provide a service to the public
23 and rightly so, so I was very conscious of how that
24 would be perceived.

25 Q. So all of those aspects were benefited by you continuing

Transcript of the Sheku Bayoh Inquiry

1 to be involved --

2 A. Yes.

3 Q. -- and continuing to --

4 A. We had already engaged, so by withdrawing we would do
5 more harm than being able to justify -- because I didn't
6 see anything wrong, because we had already started, and
7 again it was for the right reasons that we were
8 progressing. If there had been criticism or -- well,
9 again that's for us to provide the reasons for that.

10 Q. Can I ask about the potential delay if you had stopped
11 in the morning and left it, and preserved, not taken any
12 further steps until PIRC did come at some later point,
13 what were the potential disadvantages of that delay,
14 that period of delay between you stopping and the PIRC
15 arriving?

16 A. It would effectively be six hours because I think the
17 first involvement with me was early afternoon with PIRC.
18 Don't get me wrong, that's just physically in person.
19 They may have been able to contact us prior to that
20 about anything else they wanted to consider, but that
21 would involve the officers that didn't want to be
22 involved.

23 Again, I got it from an independence/transparency
24 perspective, but we would -- again it would just -- the
25 eyes and the expectations of Kirkcaldy and the local

Transcript of the Sheku Bayoh Inquiry

1 community were on us at that time, even from our own
2 officers as well of what -- we're a public service,
3 we're there to respond and investigate. But those
4 functions were being by no means questioned but being
5 affected by what we were trying to achieve by an
6 organisation coming in to do an independent
7 investigation.

8 Q. So if you had stopped in the morning and done nothing,
9 there would have been a period of around six hours where
10 nothing would have been done?

11 A. If we're going by the time that PIRC landed effectively
12 at Kirkcaldy, yes.

13 Q. That would have included the full morning, the details
14 with Colette Bell, all the involvement there, and other
15 things that took place up until roughly 2 o'clock in the
16 afternoon?

17 A. Yes.

18 Q. You said your first involvement with PIRC was early
19 afternoon. When PIRC arrived did they have the
20 resources at that time to then hit the ground running
21 effectively?

22 A. Yes, I think in fairness I think the discussions had
23 probably been held with the SIO in terms of at that time
24 that kind of handover, as I just discussed at the first
25 Gold Group that actions did start to happen conducted by

Transcript of the Sheku Bayoh Inquiry

1 the officers brought in, so I imagine there had been
2 some form of dialogue/decision between PIRC and then the
3 SIO.

4 Q. But not with you?

5 A. Not with me, no, because it was a case of -- I think the
6 instructions for me was again that gathering and
7 consolidating what had happened in the morning with
8 a view to providing that brief at 11.30 for the first
9 Gold Group meeting.

10 Q. But that was not a meeting attended by PIRC?

11 A. No.

12 Q. To go back to the question I asked, when they did
13 ultimately discuss the matter with you, were they then
14 in a position to continue with the investigation
15 straight away?

16 A. Or pick up from what had eventually been started --

17 Q. Or pick up from what you had --

18 A. -- yes, because there had definitely been other actions
19 identified and progressed by officers. Whether that had
20 been in consultation and agreement with PIRC, whether it
21 was periphery enquiries but -- and there was obviously
22 other certain elements that they wished certain
23 provisions to be in place before the actions were
24 carried out.

25 Q. Were they able to -- were PIRC able to provide the

Transcript of the Sheku Bayoh Inquiry

- 1 resources to then continue with that investigation?
- 2 A. Not in the entirety, I don't -- I think it's a pretty
3 refined resource. I recall only seeing potentially four
4 or five -- my dealings with them, four or five staff
5 members from PIRC who attended that day.
- 6 Q. When you use the phrase "Refined resources", what does
7 that mean?
- 8 A. They didn't have the resource, given the scale of the
9 investigation, to do everything completely on their own,
10 so I imagine there's something built in that they would
11 use Police Scotland as that essentially conduit to do
12 that on their behalf, again ensuring that there was
13 independence/transparency to whatever degree.
- 14 Q. We will probably hear more evidence about this in the
15 future. Of the four -- did you say four or five people
16 from PIRC that you were aware of?
- 17 A. This, roughly, is what I can recall.
- 18 Q. Do you remember what their level of seniority was, or
19 what their experience was of dealing with an
20 investigation into a death?
- 21 A. No.
- 22 Q. We may hear that some of them were former
23 police officers, did you know any of them?
- 24 A. I didn't know them as former police officers.
25 I think -- I don't recall if I knew that at the time.

Transcript of the Sheku Bayoh Inquiry

1 I certainly -- I knew that during my first interview
2 with PIRC, just in terms of that conversation rapport
3 building at the start, in terms of what they did
4 previously.

5 Q. And was it a way that they built rapport with you, to
6 mention their connection with the police?

7 A. I think so, just in conversation though, it was
8 nothing ...

9 Q. So thinking back now, what was your impression of PIRC
10 when they came in, in the afternoon?

11 A. I didn't really form -- personally maybe with some of
12 the other delays that no doubt maybe will be discussed
13 in terms of my own personal views of what we should have
14 been doing -- I'm not saying I disagreed with them
15 because again they had their role to play, but really my
16 involvement was the second -- what I would class as the
17 second Gold Group, where we more or less for their
18 benefit went over the first Gold Group. So it involved
19 me at the start giving that kind of investigative
20 update, really just that timeline of the events from the
21 call and just walking through the majority of stuff that
22 I have covered just now, supplemented by anything that
23 had been potentially gleaned in the interim period and
24 then working through the strands of the Gold Group.

25 Q. So repeating at the second Gold Group meeting --

Transcript of the Sheku Bayoh Inquiry

1 A. Yes.

2 Q. -- what you had done at the first? You mentioned there
3 you had your own personal views of what you should have
4 been doing. Tell me what they are?

5 A. It was frustration. There was things that I thought we
6 should have done quicker.

7 Q. What were they?

8 A. And it was -- it was definitely around the family/next
9 of kin element.

10 Q. Can you explain what you mean?

11 A. So I think -- we have not covered it yet, but the -- me
12 being in charge, even pre-11.30 with my discussions
13 around my management team in terms of DS Dursley at that
14 time, the message that was passed to Colette Bell was
15 with the full intention -- or that we would then, having
16 obtained family details, that would be the next port of
17 call and fairly swiftly thereafter, but that wasn't the
18 case.

19 Q. Why wasn't it the case?

20 A. So when we talk about the stop element, and I have
21 explained how we kind of negotiated for us to continue,
22 there was -- and again, whether it plays out as an
23 instruction, but there was a request or opinion of the
24 PIRC that using different officers from the MIT in terms
25 of the investigation -- and they were pretty adamant

Transcript of the Sheku Bayoh Inquiry

1 they would want family liaison officers to be deployed
2 from the outset to the family and not P Division family
3 liaison officers, but again it was logistics because
4 I think when we scoped it there was family liaison
5 officers available say in the north of Scotland, so
6 again that delay what was lost -- that period of having
7 told Colette to then we know the time that the family
8 were first informed and by who.

9 Q. We have heard that Mr Bayoh's sister and her family were
10 not told until after around 10 past 3 in the afternoon.
11 Was that of a concern to you?

12 A. Yes, because the whole -- the purpose of -- the purpose
13 of contact and collect in terms of the importance around
14 trying to get -- fill in the gaps and the information
15 and identify the witnesses, the next bit was telling her
16 that he had died. But outwith that, and in my statement
17 we have also tried to identify was she the next of kin,
18 I think we found out we've got the sister's details. So
19 I have extracted that because that's the information
20 I would look to get back from the DCs, then with a view
21 of going and notifying the next of kin, in line with
22 process really, nothing bespoke to this incident.
23 That's what we would ordinarily do. If the person we
24 were telling that he had died wasn't a next of kin, then
25 it's part of that process to go and notify the next of

Transcript of the Sheku Bayoh Inquiry

1 kin.

2 Q. So if PIRC hadn't been getting involved and there hadn't
3 been this stop discussion, you say you are -- the next
4 process for you would ordinarily have been to let the
5 next of kin know?

6 A. Yes.

7 Q. And would that have also involved the appointment of
8 police family liaison officers?

9 A. Yes, and again it doesn't always -- again, from a death
10 investigation we were looking to deploy a FLO. We don't
11 always stop until a FLO is appointed because sometimes
12 we're already committed to the family in terms of that
13 initial response, so there's -- so there's sometimes
14 a point of contact for the family, to provide that
15 continuity in the early stages, provide some
16 information. That would then probably then lead into
17 a handover if there was to be a FLO deployed.

18 Q. So if PIRC -- if you hadn't known that PIRC were going
19 to be involved in taking over the investigation, once
20 you had found out from Colette Bell about the existence
21 of Sheku Bayoh's sister, Kadi Johnson, what steps would
22 you have instructed in relation to the FLO?

23 A. I don't necessarily -- so ordinarily I wouldn't have
24 been considering immediately a FLO because in every
25 circumstance it isn't always required if an

Transcript of the Sheku Bayoh Inquiry

1 investigation is going to have that kind of longevity,
2 so I would just look to deploy a resource and the most
3 suitable resource to do that, to let the family know at
4 the earliest opportunity.

5 Q. We have heard from DCs Mitchell and Parker who
6 ultimately did go to the Johnsons in the afternoon and
7 pass on a death message, and we will come back to that,
8 but when you're talking about a suitable resource, of
9 deploying a resource, who are you thinking of, who would
10 have been suitable in --

11 A. So if I had another couple of detectives at my disposal,
12 them. Would I have considered uniformed response?
13 Probably not in these circumstances but ordinarily we
14 could utilise -- I can speak to the PIO and utilise
15 uniform response, knowing that that is the sole purpose
16 and appreciating that any further information may come
17 in due course. That's how we approach it, that's the
18 kind of style of communication and messaging that we
19 would look to adopt.

20 Q. So you could have sought assistance from the PIO, who we
21 have heard was Inspector Kay and would that have been
22 officers from another area outwith Kirkcaldy?

23 A. Yes. If the decision was mine, which it wasn't, would
24 I have deployed uniformed officers? Probably not.
25 I would probably have looked to deploy officers that

Transcript of the Sheku Bayoh Inquiry

1 I knew and that had the skill set and the experience to
2 go and deliver a death message, appreciating the
3 difficult task that it is, appreciating the impact of
4 delivering death messages as well.

5 Q. Whose decision was it, or would it have been in relation
6 to the next of kin?

7 A. I don't know if I envisaged -- again because with me and
8 DS Dursley effectively, without consulting Detective
9 Super Campbell that it was the right thing to do,
10 brought Colette back. In the interim period we have
11 learned that Mr Bayoh has died, we basically looked at
12 each other and said, "She needs to know". Unfortunately
13 I have not been in control of thereafter so it would
14 really just be -- I would look to come out of
15 unidentified and go into details of the next of kin, to
16 identify resource to go and do that. Easy enough saying
17 because I didn't do it because then what would I -- what
18 was I telling the family as well. I know that forms
19 a big part of this.

20 Q. We will come on to that. So what stopped you -- once
21 you knew from Colette Bell about Mr Bayoh's sister, what
22 stopped you progressing --

23 A. So that's when I learned that basically in line with
24 PIRC they want the first contact with family to be from
25 a family liaison officer.

Transcript of the Sheku Bayoh Inquiry

- 1 Q. So you knew that PIRC were going to be involved then,
2 you knew there was generally a stop on it. How did you
3 come to know that PIRC wanted PIRC family liaison
4 officers to deal with it after that?
- 5 A. I think I learned -- and again, just with the timing of
6 it, I think I went from speaking to DS Dursley, the
7 involvement with Colette, from the information and
8 pretty much led straight into that Gold Group where I --
9 I didn't know if at that time, having fed that in, we
10 were going to get some direction but it was definitely
11 discussed, I think potentially in notes in my daybook in
12 terms of next of kin.
- 13 Q. Look at your daybook for me please and tell me if
14 there's something in that helps you in relation to this
15 period where that we're talking about, so prior to your
16 11.30 Gold Group meeting? Is there anything in your
17 daybook that helps us with this..?
- 18 A. I can obviously see on the first page that next of kin
19 is a consideration after TSU in terms of deceased.
- 20 Q. Yes.
- 21 A. So that's -- again, it's an immediate and again fairly
22 standard consideration of how we investigate deaths.
- 23 In terms of -- yes, I think if you look at -- scroll
24 down to the next page, so starting at the very top of --
25 with the 11.30 Gold Group, section 3 down to halfway

Transcript of the Sheku Bayoh Inquiry

1 down under "Clothing cut", you will see:

2 "[Next of kin] - FLO MIT (strategy)."

3 So by that time -- number 2 is me providing the
4 update, hence why I have not been able to write and
5 speak.

6 Q. Yes.

7 A. When I started to note number 3 that's me taking notes
8 of the meeting to where everybody else is that's
9 obviously contributing.

10 Q. These are your notes of the first Gold Group meeting?

11 A. Yes, because I think I was going to take -- again, just
12 with the available resources I was effectively going to
13 take a summary of that meeting for evidential purposes.
14 So they're -- it's remiss that I've not put who said it,
15 but "next of kin" and -- well, it might be Detective
16 Super Campbell because next to number 3 in the heading
17 "Investigative process", "Detective Super", so that's
18 the points he has covered.

19 So I have covered up to that stage and I think, from
20 what I recall now, Detective Superintendent Campbell has
21 then brought in from his involvement and led him through
22 the conversations no doubt with senior management and
23 PIRC, so at that time to learn that we're going to go to
24 the family but with a FLO. Whether that's a suggestion
25 from the MIT -- and I think that's what is said in terms

Transcript of the Sheku Bayoh Inquiry

1 of officers outwith, with an associated strategy, which
2 in the main is right, that's what potentially further
3 down the line ordinarily.

4 Q. When you found out that PIRC wanted a MIT FLO, was that
5 at the 11.30 Gold Group meeting or was it prior to that?

6 A. It potentially was and came up in conversation before
7 because -- no doubt as part of my updates to the
8 detective super with regards to Colette, the call, early
9 engagement by the DCs in terms of their actions, in
10 terms of address, bringing her back, the information she
11 gave roundabout potential witnesses, the death message
12 was -- we know she gave us the details of the next of
13 kin. Whether they told me there -- there wouldn't be
14 much time to be honest. I feel that I did that and left
15 straight into the Gold Group.

16 Q. But Detective Superintendent Campbell might be able to
17 help us in relation to that?

18 A. It appears from my notes there that section 3 is really
19 the majority of stuff that he was speaking to the
20 Gold Group about.

21 Q. So, although there's no mention specifically there of
22 PIRC, it was your understanding that that was the wishes
23 of PIRC?

24 A. Yes.

25 Q. That that's the way it should be handled?

Transcript of the Sheku Bayoh Inquiry

1 A. Yes, because ordinarily he would provide them, and with
2 confidence. But we know that he had already consulted
3 with PIRC and what the intentions were.

4 Q. Can I now move on to something else in relation to -- we
5 mentioned earlier the canteen and what was happening, so
6 this is happening prior to the first Gold Group meeting.
7 Before I move on to those meetings I would like to
8 finish this section.

9 Can we look at PIRC 00223 please, page 8. You will
10 see at paragraph 5 it starts:

11 "Some time between 0830 and 0900 hours I attended
12 the canteen where I was aware the officers involved in
13 the incident were gathered. They were all there except
14 PC Short, who was still at the hospital and PC Smith who
15 had driven the ambulance to the hospital."

16 So this is returning to the early part of the
17 morning. The officers have returned to Kirkcaldy Police
18 Office. It's before 9.04, which is when life was
19 pronounced extinct, so at this stage it's prior to
20 knowing that Mr Bayoh had died and it says in the next
21 paragraph:

22 "I spoke to the officers concerned and started by
23 saying I empathised with their positions, however, it
24 was natural there would be an investigation to get an
25 accurate account. I requested that they not actively

Transcript of the Sheku Bayoh Inquiry

1 discuss the incident at this time and just relax, watch
2 TV and have a cup of tea or coffee. Also present at
3 this time was PC Austin Barrett who is a police
4 Federation Representative. He made no comment at that
5 time. As far as I was aware Sergeant Scott Maxwell was
6 looking after their welfare."

7 Do you see that?

8 A. Yes.

9 Q. I would like to ask you a little bit about what you said
10 to the officers about not actively discussing the
11 incident?

12 A. I don't know if it's helpful, again with the thing we
13 spoke about yesterday, the decision, and obviously with
14 Sergeant Maxwell overseeing that is to take the officers
15 that had been involved in the incident back to the
16 police station, one in terms of the impact and trauma
17 that it had on them in terms of the welfare perspective,
18 but also to gain control of them to then what the next
19 steps were going to be. At that stage I didn't know.

20 So during that period you're aware that I have had
21 an early indication that PIRC are attending, I was very
22 conscious in that kind of visibility piece of knowing
23 that the officers were there and not avoiding them is to
24 go down -- it is just knowing how my day was going to
25 unfold in terms of the commitments was -- I found

Transcript of the Sheku Bayoh Inquiry

1 an opportunity to go down -- I don't know if it was
2 myself and DS Davidson that went down just -- not really
3 in support of them, it was just really a check on them,
4 probably update them to where I was at and what would
5 follow, again with heavily caveated that I didn't know.

6 Naturally there would be an investigation, naturally
7 they would be anxious as a result of that. I could --
8 by looking at them in terms of the kind of state of
9 shock and trauma that they were in. It was more just
10 trying to not actively talk about it -- and I'm aware
11 now it's saying in terms of conferral, but it's the same
12 advice regards other witnesses to say, "Look, don't talk
13 about it". Those contributing -- where welfare is
14 putting control measures in, knowing we would look at
15 some point to get statements and account from them.
16 There was also the medical considerations in terms of
17 they needing anything and the forensic considerations.

18 But first and foremost was as colleagues, having
19 been at there and the aftermath with them, was to just
20 go down and show face effectively.

21 Q. What did you say to them about not conferring?

22 A. So I didn't say that because I wouldn't be familiar with
23 the term, I have since learned, but I think on
24 reflection I said the same basics, "Look, because we
25 need to get an account from you, in what fashion

Transcript of the Sheku Bayoh Inquiry

1 because of the number and the logistics involved please
2 don't talk about it", in terms of probably protecting
3 them and protecting the integrity of their evidence.

4 It was more our colleagues were together, they were
5 in the canteen, just tried to get them to refresh, put
6 the telly on, some form of distractive measures. By all
7 means don't sit in silence, have a conversation, it
8 would be very difficult not to then reflect on what had
9 happened, so it was -- yes, it was all good enough me
10 saying, "Please don't talk about it", but I knew it was
11 important to try and maintain the integrity of what
12 account they would give and then, having said that, how
13 was I going to put control measures in place to try and
14 do that.

15 Q. Why would the officers talking about the incident impact
16 on the integrity of their account?

17 A. I think if you put any people in a room and talk about,
18 in open forum, information about an incident and they're
19 then -- it could influence or taint some other view,
20 question other people's views, I think what is explained
21 in my statement about the years since the incident of
22 what I have seen and heard and my recollection is
23 sometimes influenced by that.

24 So, yeah, just exactly that. The less they talk
25 about means they maintain their own thoughts roundabout

Transcript of the Sheku Bayoh Inquiry

1 the recollection of events.

2 Q. Is there a way to avoid them talking about the incident
3 amongst themselves?

4 A. Definitely, you could have separated them, which was
5 again another request/consideration about our
6 conversations.

7 Q. And in terms of the circumstances in Kirkcaldy that day,
8 did you consider separating?

9 A. I was asked to.

10 Q. Who by?

11 A. Detective Superintendent Campbell.

12 Q. What was your response to that?

13 A. I think the first one would be how, in terms of
14 logistics because the number of officers -- and I have
15 already explained the kind of resource available and
16 that logistics of how we were going -- how we would do
17 this. But probably more importantly is I would have
18 contemplated that is why, why are we separating them,
19 why would we isolate them after this?

20 But again, I think as part of that, as part of that
21 kind of pressure test my -- I'm not saying decision, it
22 wasn't my decision -- it was my decision in the end not
23 to separate them, it is trying to give that kind of
24 justification rationale to the detective superintendent
25 is that: why are we doing it? It's integrity. I said,

Transcript of the Sheku Bayoh Inquiry

1 "I could achieve the same integrity by putting them in
2 one place, proper welfare, but the control measures of
3 someone independent", as we could at that time, in terms
4 of a separate officer not connected and then the
5 attendance of the Federation -- a Federation rep from
6 the welfare perspective, and that would have been
7 I suppose then overseen by Sergeant Maxwell.

8 Q. Let me just take you through that in a little bit more
9 detail. When were you asked to separate them by
10 Pat Campbell?

11 A. It was definitely a conversation before -- I think they
12 either had left or were en route back to the police
13 station.

14 Q. So this is before the officers had got back --

15 A. So during that hour of -- well, the transmission itself
16 was at quarter to 8 and then me discussing with
17 Graeme Dursley, so within that hour, hour period.

18 Q. So this spreadsheet, page 16, 7.43, it's from some time
19 after that period and then was it prior to you going to
20 the canteen between 8.30 and 9 o'clock, as we see on
21 your statement here?

22 A. Yes, because I think at that time probably -- I won't
23 say I spoke with confidence, but I wasn't coming away
24 thinking, "I'm going to have to go back and separate
25 them", I think the decision -- I wasn't deciding not to

Transcript of the Sheku Bayoh Inquiry

1 do that. If it then -- if it got superseded and that
2 changed again we would have -- by isolating them without
3 the staff and the logistics to do it, it would
4 potentially aggravate things further, most importantly
5 in terms of their welfare. We couldn't do it properly.

6 Q. So between quarter to 8 and half past 8 you have
7 a telephone conversation with Pat Campbell?

8 A. Mm-hm.

9 Q. Where were you when you had that conversation?

10 A. I don't think I had returned to the police station by
11 then and obviously it was all on the phone and I think
12 that first daybook, the considerations about the
13 witnesses, the officers form part of that witness strand
14 in terms of --

15 Q. Were you in the car?

16 A. Yes, potentially.

17 Q. And it's before you have started your daybook?

18 A. Yes.

19 Q. Is there anything in your daybook about this telephone
20 call?

21 A. I don't think so.

22 Q. And Pat Campbell asks you to separate the officers. Was
23 that an order, or was it a request?

24 A. No, it didn't sound like an order and if it was then
25 have I went against it? But I think it was like PIRC

Transcript of the Sheku Bayoh Inquiry

1 are looking for them to be separated, so he became -- he
2 became the kind of conduit between me on the ground and
3 then obviously with PIRC who were going to be the
4 organisation that came into kind of lead the
5 investigation. And again credit to him was a factor,
6 this is what they're asking for but he was consulting
7 with me because I was on the ground.

8 Q. And you mentioned logistics. How easy would that have
9 been in Kirkcaldy Police Office to separate all the
10 officers?

11 A. You would have to have a separate room or space for
12 every officer, so again by that time with the exception
13 of Nicole Short, I don't know if it was seven or eight
14 and --

15 Q. And Smith I think you also mentioned?

16 A. Yes, in terms of who was there --

17 Q. Who was not there. So there would have been perhaps
18 around seven officers?

19 A. Again, the control then was -- I'm not saying lost, but
20 with Nicole Short being at hospital what are we going to
21 do with her? But again I think it kind of came back to
22 why are we doing it. Taking the police element away,
23 these were witnesses to a death. Again, we're -- I'm
24 not saying it's a common occurrence, but I have been
25 involved in a lot of deaths where we have been

Transcript of the Sheku Bayoh Inquiry

1 transporting a number of witnesses away from a location
2 back to a police station collectively, not separation.

3 If there was forensic considerations perhaps, but
4 again I think I looked at that. They all had social
5 contact, they all worked with each other, there's
6 nothing in the circumstances why we would separate them.
7 We know that they had potential forensic evidence, their
8 equipment that they still had that wasn't obviously on
9 the roadway, but again by bringing them back and putting
10 them all in one place we had more control as opposed to
11 that splintered, fragmented approach of isolating them,
12 being on their own. For every witness we would need
13 then another officer to sit with, if not two, so it
14 just -- again, it came back to after the how would be
15 the why.

16 Q. If they had been civilians would you have had the same
17 logistical issues and the same issues regarding why
18 separate?

19 A. So on a number of occasions I have dealt with either
20 personally as a DC/DS at a location of a death where
21 there's a number of witnesses who need their accounts
22 taken from them, or on call, a phone call, similar
23 circumstances, and ordinarily it is back to a police
24 station collectively where we then have the resource and
25 the plan to how we will obtain those accounts. It

Transcript of the Sheku Bayoh Inquiry

1 usually just means someone, if not two people, sitting
2 with the group and then separately taken out and their
3 accounts noted.

4 Q. So would you have treated them any differently if they
5 had been civilians?

6 A. No.

7 Q. You have talked about control measures, you have
8 mentioned a few things. You have talked about someone
9 independent sitting with them?

10 A. Yes.

11 Q. So who was that on the day in the canteen?

12 A. So I think I have referenced it in the majority of
13 statements and I've never been told who that was.
14 I didn't identify them there and then and introduce them
15 as, "This is the person that's going to be sitting in
16 for the reasons why". It was a request but there's
17 nothing that I saw that had been put in place. In the
18 interim period -- again, it's on reflection I haven't
19 got Maxwell there who is the sergeant and having that
20 supervisory oversight, but he was more for the welfare
21 as part of his officers. I wasn't asking him to,
22 "Please ensure that your officers don't speak about it".

23 Q. How were arrangements made to have an independent person
24 sitting in the canteen?

25 A. In terms of the Federation?

Transcript of the Sheku Bayoh Inquiry

1 Q. In terms of any independent person?

2 A. So --

3 Q. Was that through you or was it through someone else?

4 A. It was a request of me. I don't know how it happened.

5 Q. A request of you by whom?

6 A. Sorry, I requested for it to take place.

7 Q. Oh, it was a request by you.

8 A. Yes. As to who allocated that and who done it, I don't

9 know but I know it happened because I was contacted by

10 the Federation rep.

11 Q. Who did you request make arrangements for someone

12 independent to be in the canteen?

13 A. I can't recall.

14 Q. Have you got any note or anything about that?

15 A. No.

16 Q. And the request you made was in relation to the

17 Federation being contacted?

18 A. Separately.

19 Q. You have mentioned in your statements to the Inquiry

20 that Amanda Givan came from the Federation and you have

21 also mentioned in the statement we looked at a moment

22 ago Austin Barrett was from the Federation and he was

23 there.

24 A. And I think he was a Federation rep and on duty

25 potentially, so again I wouldn't say comfort but it was

Transcript of the Sheku Bayoh Inquiry

- 1 another support mechanism there for the officers.
- 2 Q. You have mentioned Maxwell. Were any other independent
3 officers asked to go to the canteen and sit?
- 4 A. It's my view that I did ask for that to happen, but
5 again at the time who would it be? The reality in terms
6 of knowing that the officers at our disposal were
7 already engaged in other actions so --
- 8 Q. Who did you make that request to?
- 9 A. It could -- it wasn't a request to, it could only have
10 been probably discussed with DS Dursley, but maybe part
11 of that just working through what we needed to achieve,
12 but effectively I had already -- he had an important job
13 of these officers with Colette Bell. DS Davidson is
14 obviously doing stuff at the hospital with DC Connell so
15 whether -- I don't know in truth. It was definitely my
16 intention, whether it was followed through -- and by the
17 looks of it I don't think I have ever seen a statement
18 that somebody was deployed in that.
- 19 Q. I'm not aware of any statements.
- 20 A. No.
- 21 Q. Do you think that's something that maybe slipped through
22 the net?
- 23 A. Potentially. It was done with kind of the best
24 intentions to have that, but also by having the
25 Federation rep and the supervisor there, it did offer

Transcript of the Sheku Bayoh Inquiry

1 that degree of integrity. If they chose after what
2 I had asked to discuss, the Federation rep would be
3 aware, whether she was able to disclose that, and
4 Scott Maxwell would as well. But again, it was putting
5 that moral obligation on them, that professionalism, to
6 just, "Look, don't discuss it", as opposed to then
7 having someone look over them in effect, but it was to
8 protect them in essence.

9 Q. So one of the control measures would have been an
10 independent person sitting in?

11 A. Mm-hm.

12 Q. That slipped through the net, but you did have Maxwell
13 there and you had Amanda Givan there?

14 A. Yes.

15 Q. Who was it that told the officers not to talk to each
16 other? You mentioned you gave -- you had a discussion
17 with them. Were you aware if Amanda Givan had that
18 discussion?

19 A. No.

20 Q. Did you ask -- make a request of the Federation that
21 they tell the officers not to speak to each other?

22 A. No, and I didn't know if it would be their role to do
23 that, they may have had something to say about it. I --
24 and again, were the officers clear -- because of what
25 I know now in terms of the kind of conferral, is that

Transcript of the Sheku Bayoh Inquiry

1 I have conversationalised a non-conferral effectively.
2 But again just as -- because I didn't know how we were
3 going to process in effect officers.

4 Q. In asking the officers not to speak about the incident
5 did you expect them to follow that instruction?

6 A. I do and I don't think anybody -- again, from the
7 experience and the whole kind of integrity of any
8 evidence that it should have been obvious to them. It
9 was just -- I suppose it was a reminder. It wasn't an
10 instruction from me. It was more thinking in line of
11 kind of protecting them, the evidence or the account
12 that they were going to provide in whatever format at
13 whatever time.

14 Q. Did you consider as a control measure monitoring the
15 situation and making sure that they didn't discuss the
16 incident, or was that something you would have expected
17 an independent person to do?

18 A. Personally me?

19 Q. Yes.

20 A. No, in terms of that capacity, that was just one element
21 of a fast-paced incident. There was loads of other
22 things going on. It is unsurprising my phone didn't go
23 during that period as well and I think that's where I'm
24 of the view that I would bring in that measure to bring
25 the balance of all -- the investigative -- the integrity

Transcript of the Sheku Bayoh Inquiry

1 of the evidence in the investigation and then from the
2 welfare perspective, but with a major driving focus on
3 welfare. And obviously I'm unsure if that's how the
4 officers felt or how that was reflected on the day.

5 Q. You have mentioned a number of times the welfare of the
6 officers and that being of concern to you.

7 A. Mm-hm.

8 Q. And that's mentioned in your daybook. What steps did
9 you put in place to ensure their welfare was being
10 looked after?

11 A. The steps would be -- obviously by not isolating them,
12 but arranging for them to go back to the police station,
13 to be together effectively. Obviously, they need time
14 to refresh. But in terms of any -- Scott Maxwell is
15 their supervisor, again, I said yesterday, I reflected
16 yesterday did I ever think that he had the capacity to
17 do it? I maybe never thought or asked him if he was
18 okay to do that, knowing that he would have been
19 affected in some way as well, so I maybe didn't consider
20 his welfare.

21 Q. Looking back now, do you think there's things that you
22 maybe could have done differently?

23 A. Yes, and again with the -- I spoke about the kind of
24 ownership of the uniform response is something maybe me
25 and Inspector Kay could have bolstered effectively, so

Transcript of the Sheku Bayoh Inquiry

1 whether it was bringing in -- I don't know what
2 available resource was, bringing in somebody else, but
3 I suppose you're introducing maybe P Division officers
4 who I talked about trying to ensure
5 independence/transparency, so that's something that
6 could have been put in place I suppose in terms of
7 the -- with the MIT coming in. I suppose you then lose
8 that period where they were unattended, but again
9 there's being aware of their own kind of moral and
10 professional obligations, I requested to them, "Don't
11 discuss it", and they're accustomed to that with court
12 proceedings, court processes as well.

13 Q. Looking back now, if you could do things differently
14 what procedures or steps would you put in place that
15 would assist with the welfare of the officers? We have
16 heard evidence that they were there for a number of
17 hours in the canteen?

18 A. So again -- and I probably did -- I didn't know that
19 they were there for a number of hours and that
20 frustration is something that I then wasn't in control
21 of in terms of the approach to the officers because of
22 the handover, one to the SIO and then with the
23 involvement of the PIRC.

24 It's not so much the welfare, I would have -- I'm
25 annoyed effectively that -- because I have considered it

Transcript of the Sheku Bayoh Inquiry

1 but not seen it through, that there was someone with
2 independence, if there was to be some form of
3 allegation/suggestion that the cops did collude during
4 that period would be the only -- but I have not went
5 from the -- even from leaving the location back to
6 the -- you kind of couldn't cover it all. We had lost
7 control in effect, or I had at some point and I'm going
8 back to did I give them an opportunity to speak, did
9 they speak potentially.

10 Q. And if you had been in charge of -- or in control of
11 everything and there hadn't been the involvement of PIRC
12 and the instruction in relation to that, what steps
13 would you have taken during the course of that day to
14 protect the welfare of the officers?

15 A. I don't know, but I'm obviously now very well accustomed
16 with post-incident procedures, so I know the main
17 purpose would be getting a statement in the right
18 surroundings. Were they able, were they fit to give
19 a statement at that stage? So I suppose you've got to
20 consider their own kind of health I suppose. Were
21 they -- I mean obviously Nicole Short had been to
22 hospital, but were there any others in need of medical
23 treatment from the suggestion that they had been
24 involved obviously in this physical confrontation with
25 someone?

Transcript of the Sheku Bayoh Inquiry

1 So I think first and foremost in terms of the --
2 yeah, there's a duty to investigate, but considering are
3 they fit to provide that statement. Again, I know -- if
4 I had went on to note their statements it would have
5 been in the fashion of one by one potentially, depending
6 on the available resource and the forensic
7 considerations as well.

8 Q. And looking back now, I know you had -- you spoke to
9 them before 9.00 in the morning. Was there ever
10 a period after 9.00 in the morning that you went back to
11 the canteen to speak to them?

12 A. No.

13 Q. Reflecting now on events then, what are your views about
14 the level of information that you were giving the
15 officers that day?

16 A. So obviously I have attended in the recent aftermath of
17 the incident. As I say, obviously by 9 o'clock it's
18 a couple of hours old. Satisfied with that. I have not
19 went back and feel kind of faceless about it. Even if
20 I had the decency to go back down and say, "Look, I have
21 handed over", I don't know if that was allocated as well
22 as part of the witness strand, I don't know, but I have
23 obviously talked about the visibility of policing and
24 then kind of contradict myself that I have been nowhere
25 to be seen, so I don't know how that's been viewed and

Transcript of the Sheku Bayoh Inquiry

1 I know obviously -- well, I know the views that have
2 been shared by Amanda Givan since in terms of, yes, they
3 have just been left to stew with no information and
4 I know how that would be perceived if we did that with
5 a member of the public, which again from the outset
6 I have said that's effectively how we should have
7 treated them, as witnesses.

8 Q. And we have heard that it was the Federation who managed
9 to get some food for the officers. We heard evidence
10 from PC Tomlinson that he had to go and find paper cups,
11 so are these the sort of things that, if you had been in
12 control of the situation that day, that you would have
13 made arrangements for the officers?

14 A. That's definitely something through -- and I'm not
15 saying obviously about Stevie Kay in terms of the PIO,
16 but definitely in terms of that -- whether it was the
17 station inspector or somebody basically to come out for
18 the logistics of the welfare of the cops, whether they
19 needed fed, water. I think -- and again, even in terms
20 of contact I think I do recall talking about, "And this
21 is the time probably to send a text home as well", so
22 obviously encouraging use of their phone, but knowing in
23 terms of the media that we have spoken about is that
24 more just a message to family to say that they are safe
25 and well, but -- that they're okay, knowing that

Transcript of the Sheku Bayoh Inquiry

1 whatever processes they were involved in, they might be
2 uncontactable for a period.

3 Q. Did you consider maybe restricting the use of
4 mobile phones? Obviously we're all aware of social
5 media and the risks of information.

6 A. No, not in terms of overtly or them using social media.
7 It would be a consideration -- it's always
8 a consideration with any investigation of is there an
9 evidential value to that particular phone. Was one of
10 their phones used to record the incident? We weren't in
11 that time in possession of information to suggest that,
12 so there was no decision or control over the phones, and
13 again on what basis for their personal phones?

14 Q. Was there any monitoring of -- there's been a lot of
15 publicity lately about WhatsApp and text messages. Was
16 there any monitoring of social media, or -- afterwards?

17 A. Potentially, but not a consideration of mine at the time
18 or whether there were -- I did obviously see the social
19 media stuff. In terms of the officers' use of WhatsApp
20 and ..?

21 Q. Yes.

22 A. (Shakes head).

23 Q. You have said that you know now about post-incident
24 procedures and I'm sure we will hear more evidence about
25 that. In 2015 were you aware of post-incident

Transcript of the Sheku Bayoh Inquiry

1 procedures?

2 A. I can't say that I was, no.

3 Q. Had you had any training or anything in that?

4 A. No.

5 Q. Was there any consideration given by you on the morning

6 to provide legal advice to the officers?

7 A. It wouldn't be my -- in my role to do. I think probably

8 as part of the Federation deployment would be something

9 that they would consider separately as opposed to

10 anything that we would provide internally.

11 Q. Can I -- we have talked about the possibility of the

12 officers being separated and that you had a discussion

13 in the vehicle on the way back to Kirkcaldy with

14 Pat Campbell about that. We have not heard from

15 Pat Campbell yet, but it's possible that Detective

16 Superintendent Campbell at that time was of the view

17 that the officers shouldn't be separated unless there

18 was a requirement to separate them, such as the type of

19 requirements that you have mentioned. Insofar as you

20 have said today and insofar as your statement says that

21 there was pressure from Pat Campbell in relation to

22 separating the officers, it may be that he will be

23 saying he didn't think they should be separated?

24 A. I don't know if he provided a personal opinion. Again,

25 it appeared that it was a request of someone else, which

Transcript of the Sheku Bayoh Inquiry

1 would be PIRC, because to be honest if it was an
2 instruction, having made the decision to gather them
3 collectively, if there was an instruction then either
4 when I went down to 9 o'clock to see them that's when
5 I would have been telling them that this was going to
6 happen, but again back to the kind of how and why.

7 Q. Right. So if we can look at paragraph 103 of your
8 Inquiry statement -- sorry, I don't know if it's who --
9 let me just check. I think it may be the first -- no --
10 no, it is, it's the first Inquiry statement and it's
11 paragraph 103.

12 So you're talking about the officers knowing there
13 was going to be an investigation, significant witnesses:

14 "I didn't classify them or brand them as what status
15 they were, but until we knew how we needed to progress,
16 this was the best way to do it. There was pressure for
17 me to separate them, but I didn't have the officers to
18 do it, I didn't have the logistics to do it. They all
19 had the social contact through working together. They
20 had all been in the same place, and all returned to the
21 same place. The pressure to separate the officers was
22 undoubtedly from Pat Campbell."

23 Did you feel that pressure was being applied to you
24 by Detective Superintendent Pat Campbell?

25 A. Constantly, and rightly so because, as I say, he was

Transcript of the Sheku Bayoh Inquiry

1 there to kind of pressure test my plans, my actions.
2 But again in a supportive way, in trying to do the right
3 thing.

4 Q. So is there a difference between pressuring you and
5 pressure testing the rationale?

6 A. Yes, I got the view that he was the messenger and the
7 fact that without the involvement or need for PIRC on
8 this day, that something that we would -- that's
9 healthy, it's just to discuss -- challenge, I suppose,
10 in terms of why, what reasons. There was no -- by no
11 means any kind of come back from us as well. I think
12 I could achieve the same in terms of the integrity of
13 the evidence, balance against the welfare of the
14 officers, by just keeping them where they are, until we
15 have a plan, but more importantly a resource to deploy
16 the plan because if I was to separate them I would
17 lose -- if I would have lost -- if I had separated them
18 at the time, I would have lost control and I think that
19 would be more detrimental to the investigation, one in
20 terms of potential evidence and from the -- more
21 importantly for me, the welfare perspective and the
22 impact on the officers.

23 Q. And what control was it you were trying to achieve at
24 that time, in what respect?

25 A. It was to balance the needs of the investigation and the

Transcript of the Sheku Bayoh Inquiry

1 welfare of the officers and just finding that balance
2 again knowing that the whole concept of what I know now
3 in terms of post-incident response, in terms of the ECHR
4 plus the duty to investigate.

5 Q. We know that when you were in the canteen that morning
6 Nicole Short wasn't there, she was at hospital, and
7 Smith had driven the ambulance to hospital. Can I ask
8 you about DS Davidson. She was obviously at the scene.
9 She was there before you. We have heard that she was
10 going about her normal business in Kirkcaldy that day.
11 Can you explain why she was not asked to remain in the
12 canteen with the other officers?

13 A. I think I have obviously tried to -- the deconflict of
14 the officers that were directly involved in the incident
15 appreciating that Sergeant Maxwell, DS Davidson,
16 DC Connell and myself were in the aftermath, so if we
17 were to include Sam in that we would have included me in
18 that because I was there. It was just separating who
19 had the physical involvement in the incident versus the
20 attendance thereafter. So I was quite satisfied that
21 it's the right thing to consider, but I kind of saw
22 a degree of independence from the actual incident. She
23 turned up in the aftermath. If she had been involved in
24 any form of restraint or had become actively involved
25 then she definitely would have been considered as part

Transcript of the Sheku Bayoh Inquiry

1 of the --

2 Q. That's not a distinction you applied to Maxwell,
3 Sergeant Maxwell?

4 A. No because I think I saw him as -- I saw him as that
5 supervisory, so I think I still had him on the periphery
6 effectively in the canteen. He was there to oversee the
7 welfare of his officers.

8 Q. Did you see -- when you talk about periphery, is that
9 periphery to the events at Hayfield Road, or --

10 A. Yes.

11 Q. -- that he was continuing with the welfare supervisory
12 role in the canteen?

13 A. The first line manager's responsibility, but again on
14 reflection it probably would have been more helpful to
15 include him as part of that so that he is with his team
16 and that somebody else had that responsibility, and as
17 you have outlined in terms of who was going to actually
18 ensure that they were suitably refreshed.

19 Q. We talked about Maxwell yesterday and his involvement at
20 Hayfield Road but then his presence in the canteen and
21 looking back now do you feel adequate steps were taken
22 to protect his welfare that day?

23 A. I don't know, but not by me. As I say, that's something
24 I do regret.

25 MS GRAHAME: I appreciate the time.

Transcript of the Sheku Bayoh Inquiry

1 LORD BRACADALE: We will have a break now. 20-minute break.

2 (11.32 am)

3 (Short Break)

4 (11.57 am)

5 LORD BRACADALE: Ms Grahame.

6 MS GRAHAME: Thank you.

7 Before we leave the issue of officers' welfare to
8 one side, can I ask you about any involvement you had on
9 3 May with a Conrad Trickett? We may be hearing
10 evidence from Conrad Trickett that he was post-incident
11 manager.

12 A. I had no involvement with him, it's only in recent time
13 that I knew he was actually deployed.

14 Q. Right. I would like to ask you some questions about
15 the police equipment. You have talked about the canteen
16 and having control, including control of equipment, and
17 you have talked about integrity. Yesterday you
18 mentioned that you were told during a conversation with
19 DS Davidson and Sergeant Maxwell that Nicole Short had
20 been stamped on and we talked about it yesterday in
21 connection with a later comment you had made about her
22 being stamped on the head and you explained that
23 yesterday, but I'm interested in knowing -- you knowing
24 in the morning at Hayfield Road that there was
25 a suggestion she had been stamped on, what impact that

Transcript of the Sheku Bayoh Inquiry

- 1 had on the way you approached the investigation
2 regarding preserving the forensic integrity of clothing
3 or equipment?
- 4 A. Obviously at the time there wasn't really -- first of
5 all that wasn't my priority and consideration, it was
6 the kind of medical attention and that was the purpose
7 of taking her to the hospital and again not knowing what
8 was then going to ensue, it wasn't a consideration in
9 effect, and to be honest with everything else that then
10 went on thereafter I -- Nicole Short was a concern in
11 terms of her welfare. I didn't get to the point where
12 I was considering forensic value of -- potentially of
13 medical examination of her and/or equipment that she was
14 wearing.
- 15 Q. Was there -- you have mentioned in your daybook, there's
16 reference to a strategy regarding next of kin and
17 I think in your evidence this morning you talked about
18 forensic strategy. What involvement did you have
19 personally in considering a forensic strategy?
- 20 A. I never got to that stage. My involvement effectively
21 ceased by then.
- 22 Q. Do you know when there was consideration given to
23 forensic strategies?
- 24 A. I think there was a forensic strategy meeting in the
25 afternoon but I wasn't part of it, so I think by that

Transcript of the Sheku Bayoh Inquiry

1 time -- so whether that was arranged by PIRC or arranged
2 for PIRC, I don't know.

3 Q. So you don't know whether Pat Campbell was involved in
4 that perhaps?

5 A. Potentially.

6 Q. So when you were aware -- you were obviously aware the
7 officers returned to Kirkcaldy Police Office. We have
8 heard evidence that certain pieces of equipment were
9 retained by the officers and in the canteen in the
10 morning. Were you able to see those items on a table in
11 the canteen?

12 A. There was definitely their officer safety equipment
13 because I think they took off their vests from which --
14 and their belts for which -- the personal equipment
15 would be attached to it, so I was aware of it because
16 I had obviously taken it off.

17 Q. We have also heard that certain pieces of equipment like
18 vests were left on the floor or leaning against walls in
19 the canteen. Were you aware of that?

20 A. I wasn't, but that's plausible, having taken it off,
21 where they would put it and there was obviously -- there
22 wasn't control measures put around about that.

23 Q. At any time when you were involved as SIO did you
24 consider recovering that equipment at an early stage?

25 A. Yes, it was an early consideration, but obviously

Transcript of the Sheku Bayoh Inquiry

1 negated by the instructions that I was getting from
2 Detective Super Campbell. I was satisfied that they
3 were in the one place, but having discussed in terms of
4 the provision it wasn't in terms of somebody
5 independent, could that stuff have been moved or even --
6 I'm not saying tampered with but yes, so that would
7 probably affect the integrity of it.

8 Q. Was that something you considered or attempted to avoid
9 in the morning?

10 A. Again, it would be the how because obviously you need
11 the resource to retrieve items and the continuity of
12 recovering that, so I think whether subconsciously I was
13 satisfied that the officers and their equipment -- their
14 remaining equipment were in one place and we had
15 measures to control that in the interim period until
16 a plan was around how we were going to process them
17 effectively.

18 Q. Are these the control measures we discussed before the
19 break?

20 A. Yes, and the one that seems to be missing in terms of
21 someone independent.

22 Q. And what resource would have helped you in the morning
23 to take more active steps towards recovery of these
24 items? You have talked about resources --

25 A. You would certainly need at least two if you were going

Transcript of the Sheku Bayoh Inquiry

1 to deal with them -- as I say, having dealt with them as
2 a collective, to then deal with them one by one. But
3 the plan never got as far as that because is the first
4 move to cover those items, is the first move to try and
5 get some form of account for them, or is the first move
6 to ensure their welfare in terms of do they require any
7 kind of medical attention?

8 Q. We have heard other evidence that an FME was later
9 contacted, a forensic medical examiner, a doctor,
10 Dr Norrie. Were you involved in any way with contacting
11 her?

12 A. No, but it's obviously plausible and it would be
13 a consideration if I was in the circumstances to allowed
14 to kind of progress with the investigation.

15 Q. Is that something you would have been involved in had
16 you continued --

17 A. It would have formed part of the forensic strategy for
18 every element of the locus -- obviously whether you
19 included Nicole Short as part of that -- is there
20 medical evidence to be captured?

21 Q. And forensic evidence perhaps?

22 A. Yeah.

23 Q. And if you had -- if it had been a normal situation, as
24 you have described before the break, when would you have
25 implemented a forensic strategy in a normal situation?

Transcript of the Sheku Bayoh Inquiry

1 A. They usually take some time to pull together because
2 you're obviously involving partners in terms of
3 essentially the Procurator Fiscal and your experts from
4 the Scottish Police Authority depending on the nature of
5 it. Sometimes these discussions can happen prior to the
6 forensic strategy meeting, if there is urgent immediate
7 actions to take place. As I say, just the whole
8 logistics, it takes time to pull together and I think
9 that's why the importance that -- as part of the
10 investigative strands is that you can skewer and
11 consolidate what you've got to allow for a more detailed
12 plan and process, sorry, how you will work through that.

13 Q. So in the normal course of events when would you
14 generally expect to be considering your forensic
15 strategy, or preparing to discuss your forensic
16 strategy?

17 A. It would be in the hours after the event.

18 Q. So would that be the morning of 3 May?

19 A. Yes, knowing that obviously you would -- with this being
20 declared a critical incident you would have your
21 Gold Group meetings as well, so the way I saw it there
22 would be a Gold Group which would then help inform also
23 your forensic strategy as well, so it would happen
24 thereafter.

25 Q. If we look at your notes in the daybook, on page 2 of

Transcript of the Sheku Bayoh Inquiry

1 that Gold Group meeting at 11.30, and we get -- is there
2 anything noted there by you that would assist us in
3 understanding what your views were at that stage, or
4 what was discussed at the meeting, I should say?

5 A. In terms of the forensic strategy? No.

6 Q. Yes.

7 A. But each of these -- again, each of these elements would
8 have an associated strategy, each of the strands that
9 I have talked about would have an associated strategy
10 outlining what your objectives are and how you would go
11 about achieving those objectives.

12 Q. So where would we see the line that would then lead to
13 a forensic strategy noted here? I mean, if there is
14 something that you see --

15 A. Yes, I don't know about a specific reference to it, but
16 there is part of that naturally in the narrative and
17 discussions that there would be -- we are mentioning
18 about obviously the Procurator Fiscal in terms of the
19 fatalities, they're part of the partners that would come
20 around to discuss that.

21 I'm not saying it's not a priority at that stage,
22 but the Gold Group is the overarching element of every
23 aspect of the investigation and then separately
24 strategies for each. So forensic strategy would take
25 place with partners, again usually in person because

Transcript of the Sheku Bayoh Inquiry

1 that's the change now in terms of the remote ability.

2 I don't think I specifically speak to a forensic
3 strategy there.

4 Q. But you would anticipate at some point that that would
5 progress?

6 A. It is a natural progression as part of -- that's why
7 we're doing all those early investigations and securing
8 stuff, to assist with the forensic strategy and how we
9 will work through that and achieving best evidence.

10 Q. We have heard evidence that at Hayfield Road there was
11 the discharge of CS and PAVA spray by different
12 officers. I'm interested what that would mean for you
13 in your role as SIO in the morning. Is that something
14 that you would have to take account of? Would you have
15 to take particular steps regarding CS or PAVA spray?

16 A. So the discharge is obviously measures in terms of
17 after-care, in terms of exposure to that, that probably
18 wouldn't be my role, that would be individual officers,
19 a person that's potentially been subject to it as well
20 in terms of after-care and then thereafter there's
21 a process in terms of -- administrative in terms of the
22 deployment of that.

23 That would probably then default to the line
24 management of the officers. From an evidential
25 perspective if it was linked to the investigation that's

Transcript of the Sheku Bayoh Inquiry

1 something that's part of that kind of forensic yield
2 that we would look to capture, so we would look to
3 obtain and retrieve the canister and holder that it was
4 discharged from.

5 Q. Can I ask you about those different elements?

6 A. Yes.

7 Q. I don't need to ask you about the after-care. Would
8 that involve medical matters?

9 A. I think there's just -- there's prescribed guidance in
10 terms of exposure to PAVA spray.

11 Q. I'm interested in what you say about the admin,
12 administrative side of things and line managers.
13 Explain that.

14 A. So again that's my -- it's been limited but it has been
15 a few years since I have -- we all, officers, have PAVA
16 spray allocated to them as a process in terms of --
17 I think it's actually classed as a firearm in terms of
18 how you store it, how you register by booking it out,
19 how you book it in and also if you were to discharge it,
20 there's forms that you do in terms of that use of force.

21 Q. We have heard that CS spray is certainly classed as
22 a firearm.

23 A. Yes.

24 Q. And in terms of the forms, what do you know about those
25 forms?

Transcript of the Sheku Bayoh Inquiry

- 1 A. I have not had to fill the forms out and I have not had
2 supervisory like line management of officers that have.
3 It is ordinarily a kind of uniform -- not function but
4 it's ordinarily uniform that are deploying their PAVA or
5 CS, appreciating that there's a difference, so I just
6 know -- and again, it's from my Professional Standards
7 days -- that there is a form to fill out in terms of any
8 use of force. One from an administrative perspective
9 and in this instance potentially evidentiary as well.
- 10 Q. We have heard some evidence that from 1 April 2013 there
11 was a memo that was issued indicating that it was
12 a legal requirement to complete use of spray forms,
13 would that tie in with --
- 14 A. Aye, sorry, the same. I know use of force potentially
15 relates to batons and seems the same concept.
- 16 Q. You mentioned line managers. What role did they have to
17 play in relation to sprays?
- 18 A. I would -- and again, don't -- I'm not that experienced.
19 I would assume it's a one, personal responsibility of
20 the officer who has it because they're in charge of it
21 having -- if they were to discharge it they would submit
22 a form explaining the circumstances leading to the
23 discharge and use of it. I would imagine like the
24 majority of processes that it would maybe go to a line
25 manager for that kind of quality assurance or sign off

Transcript of the Sheku Bayoh Inquiry

1 before it was then submitted into whatever police
2 function kind of coordinated or collated them from like
3 an administrative, performance perspective.

4 Q. So for the officers that day in the canteen, their
5 supervisor, if you like, was Acting Police Sergeant
6 Maxwell?

7 A. Yes.

8 Q. He is obviously in the canteen with them as well. Who
9 would their line manager be effectively then for the
10 purposes of looking at forms and completing forms?

11 A. If it was that day -- and I'm not appreciating if
12 PS Maxwell was -- I don't know how long he was covering,
13 how long he had been with the team, but whether they --
14 again, the guidance will tell you whether they have to
15 submit that before termination of duty to the line
16 manager. I think it's on a system, like it's
17 a pro forma system. It used to be a hard copy, I think
18 it has transferred over to electronic, I think. As
19 I say, I've never had to populate one or review one.

20 Q. On that day did you consider the availability of forms
21 for the officers when they were retained within the
22 canteen area?

23 A. No, because I think in terms of the process of
24 proceedings that it was maybe something that first and
25 foremost looked to deal with other priorities in terms

Transcript of the Sheku Bayoh Inquiry

1 of their account, statements-wise. We have obviously
2 talked about again welfare and forensic element. That
3 administrative one would probably have come after that
4 potentially, if there wasn't -- ordinarily if they have
5 deployed it in line with their duty and they have been
6 well enough to return, complete the paperwork associated
7 with the incident, that would be one of those things.
8 Naturally we had effectively taken them off operational
9 duties and kind of secured them pending the decision
10 about how they will be dealt with.

11 Q. So was that something you had any involvement in at all
12 on 3 May?

13 A. No, and I wouldn't have thought it was ever even a --
14 a kind of priority consideration.

15 Q. Who -- if someone was considering that matter, who would
16 that have been on 3 May, or even after that?

17 A. I would imagine it would fall to the PIRC, just taken on
18 from what our considerations would be, naturally it
19 would be part of their investigative considerations from
20 an evidence perspective. They were naturally going to
21 follow the same processes and lines of enquiry that we
22 would, but just from the independence perspective, so
23 I would assume that they would have -- at some point,
24 whether it was a priority, instead of one probably the
25 CS from the physical element of the actual canister and

Transcript of the Sheku Bayoh Inquiry

1 then separately the follow-up administrative, but the
2 cops hadn't been able to get to that stage.

3 Q. Right. You mentioned a moment ago your experience in
4 Professional Standards and performance, so I'm
5 interested in why that sprung to mind for you in
6 relation to a question of completing the forms?

7 A. So from my time in Professional Standards with again
8 close relationships with PIRC and being that conduit
9 with the functions as well in Police Scotland with any
10 investigations that they undertook and as part of that
11 we would arrange, if required and the circumstances
12 dictated, copies of those forms to assist with any
13 enquiries/investigations they were undertaking.

14 Q. Would that be copies of completed forms, or copies of
15 forms to be sent to officers to complete?

16 A. Yes, so -- no, I think officers would complete them in
17 line with their duties and investigation. Obviously if
18 PIRC were to come in on the back of that they would
19 look, again as part of that information gathering, to
20 what information material was available as part of the
21 incident that they were -- events that they were
22 investigating.

23 Q. Thinking about 3 May 2015, what could Professional
24 Standards have done that day to assist with the
25 completion of forms, if anything?

Transcript of the Sheku Bayoh Inquiry

1 A. It's not with the completion of forms. It would only
2 really be to potentially collate and gather what was
3 already pre-existing, not to then complete stuff that
4 wasn't already populated.

5 Q. Did Professional Standards in 2015 have any role if
6 there was a failure to complete forms?

7 A. By the officers?

8 Q. By the officers?

9 A. Again, I don't know in terms of -- again, it's the duty
10 of the officers to complete the forms, or any
11 administrative function online with their duties.
12 Failure to do that in terms of what -- any kind of overt
13 action -- it would be a case-by-case basis in terms of
14 whether that related to a conduct or performance issue
15 of the failure to do that.

16 Q. If, talking hypothetically for a moment, if officers do
17 not complete forms, such as use of spray forms and for
18 some reason a line manager does not observe that,
19 monitor it and require that to be done, or they still
20 don't complete the forms, how would Professional
21 Standards become aware of that situation?

22 A. The mechanisms are totally -- they vary. This could be
23 an education piece, does the officer actually have
24 enough knowledge and have they been given the awareness
25 that they need to complete that form?

Transcript of the Sheku Bayoh Inquiry

- 1 Q. How do Professional Standards become aware that maybe
2 there has been a failure --
- 3 A. I don't think they would proactively seek to identify
4 people who weren't completing administrative duties.
5 I think it would have to be identified through whether
6 it was line management and I think the line management
7 there's an education, but if it's a consistent,
8 persistent element that could really -- if it can't be
9 dealt with by performance by the line management it's
10 something that might be escalated for consideration by
11 PSD.
- 12 Q. So if officers are not willing to complete forms that
13 are a legal requirement, it would be open to a line
14 manager to raise that with Professional Standards?
- 15 A. Potentially.
- 16 Q. Depending on the circumstances?
- 17 A. Yes.
- 18 Q. Can I ask you to go back to the CS and PAVA sprays. One
19 of the other strands you mentioned was the -- we talked
20 about welfare, medical, we talked about admin, line
21 managers, you talked about investigating -- from the
22 investigative point of view and the forensic yield, you
23 would retain or retrieve the sprays, the canisters.
24 What steps were taken that morning, on 3 May, in
25 relation to retaining or retrieving the canisters?

Transcript of the Sheku Bayoh Inquiry

1 A. With the exception of the items that were recorded and
2 recovered as we spoke about yesterday with DS Davidson
3 and DC Connell which included --

4 Q. Right, you mentioned batons?

5 A. Yes, I was going to say as part of that I don't know.
6 There was PP equipment, identified batons so if there
7 had been CS canisters as part of that it would have been
8 recovered. Failing that if it was retained -- it's more
9 likely it is retained on the officers because of the way
10 it's connected to their officer safety equipment -- it
11 would be with them at the station.

12 Q. What steps, if any, were taken by you to retrieve or
13 retain those canisters?

14 A. None at that time.

15 Q. Was there any plan to retrieve or retain those
16 canisters?

17 A. Yes, but it would be part of the broader plan that
18 I would have -- if I had remained as SIO it was
19 consideration as part of the plan, the holistic plan for
20 the officers in terms of their statement, medical,
21 forensic and as part of that it would have fallen into
22 the CS.

23 Q. That would have been part of a forensic strategy or
24 a welfare issue?

25 A. Yes, I wouldn't have just went in on haste and taken all

Transcript of the Sheku Bayoh Inquiry

1 the equipment away. One because I didn't have the staff
2 to do it.

3 Q. If you had been implementing a strategy to recover those
4 canisters, what sort of things would you have done on
5 3 May 2015?

6 A. Again, it's hypothetical. The way that I would see it
7 and whether it went again anything, with the Federation
8 being there, that they advised against, is that I would
9 have looked to probably do the forensic capture -- so
10 the way I probably envisaged it, and again it is just
11 trying to be in keeping with what we do ordinarily with
12 it, is we have the witnesses together as a collective,
13 depending on the resource that you had. Where you could
14 only take one at a time is you take that one person with
15 the equipment that belongs to them, part of that you're
16 recovering it because you've got that continuity with
17 the -- probably it would be with two officers,
18 unconnected, who recover the items, consider if there is
19 requirement for any kind of medical examination and then
20 consider obviously how they're going to provide their
21 version of events. Not do it -- not do it bit by bit,
22 it's one officer and do the full wrap around for every
23 element of it.

24 Q. So the retrieval of the canisters would have been swept
25 up within that welfare consideration?

Transcript of the Sheku Bayoh Inquiry

1 A. That full process involving the officers, as opposed to
2 doing a tranche of taking all the equipment off
3 everybody and going back and doing -- it was just one
4 officer at a time, if we had the available resource we
5 could have done two at a time, and it is just -- I'm
6 only doing it in keeping with what we would do in normal
7 circumstances where we have multiple witnesses, that we
8 would get their statements and as part of that is there
9 any associated productions or items, medical samples, as
10 part of -- depending on the circumstances of what we're
11 investigating.

12 Q. You were SIO for the Fife division that day?

13 A. Yes.

14 Q. Can I ask you, were you aware that day about an incident
15 which had taken place in Victoria Hospital and a review
16 that had been carried out by PIRC in the
17 previous October, in relation to CS spray? Is that
18 something you were aware of?

19 A. No, I think as I think I said, I wasn't aware of any
20 kind of PIRC deployment to Fife division from the
21 inception of Police Scotland to the --

22 Q. This is particularly in relation to sprays and can
23 I ask -- can I show you something and ask if you knew
24 anything about it. Can we look at PIRC 00474 and you
25 will see at the top it says:

Transcript of the Sheku Bayoh Inquiry

1 "Use of CS spray within Accident and Emergency
2 Department, Victoria Hospital Kirkcaldy,
3 18 October 2014."

4 And if we go towards the -- you will see that this
5 is a PIRC document. I really just want to ask you about
6 page 7 and 8 and just see if any of this rings a bell.
7 I'm interested in the recommendation which we can see
8 just coming up here:

9 "Police Scotland should ensure that procedure on
10 managing exposure to CS spray in a hospital setting is
11 clear and includes adequate guidance for NHS staff on
12 what steps they should take following a CS discharge
13 within NHS premises. This will involve liaison with all
14 Health Boards~..."

15 Then there is a section that says:

16 "Management of CS spray in Fife division.

17 "During the course of the investigation, the PIRC
18 also found that Police Scotland's procedures in relation
19 to the issue, use and storage of CS spray did not
20 contain sufficient guidance for officers in Fife
21 division."

22 And:

23 "Appendix C of the 'Use of Force' Standard Operating
24 Procedure ... merely states that:

25 "The former Fife Constabulary utilises the following

Transcript of the Sheku Bayoh Inquiry

1 forms to audit CS incapacitant sprays."

2 Then there are some bullet points listed. Then it
3 says:

4 "The investigation found that Kirkcaldy Police
5 Office was not following this limited guidance. For
6 example, the last completed daily control sheet for the
7 issuing/return of CS spray canisters was
8 07 October 2004.

9 "The PIRC's enquiries also identified that an email
10 was circulated in Fife division on 10 January 2014 by
11 Inspector ... instructing that, when an officer deployed
12 their CS spray the canister should be double-bagged,
13 a label securely attached to the outer packaging, and
14 then securely stored within the CS cabinet at the
15 relevant station for uplifting the following day. This
16 guidance was not followed in this instance."

17 And it then goes on to talk about other matters and
18 things that had gone wrong on this occasion which
19 I don't need to mention to you but can we just go back
20 to the bottom of the previous page. Were you aware that
21 there had been an email circulated to Fife division
22 about when sprays -- a CS spray was deployed that the
23 canister should be -- and if we can go on to the next
24 page:

25 "... double-bagged, a label securely attached to the

Transcript of the Sheku Bayoh Inquiry

1 outer packaging, and then securely stored within the CS
2 cabinet at the relevant station for uplift the next
3 day"?

4 A. Not aware of the incident, not aware of the email.

5 I appreciate we do get a certain number of emails in
6 terms of guidance, but I am familiar with CS following
7 discharge being packaged in a format in terms of -- it's
8 probably from a health and safety perspective and
9 potentially evidential, but that's not uncommon or
10 unfamiliar with me. As I say, I've never had to package
11 CS or PAVA canister after.

12 Q. We have not heard any evidence to suggest that the
13 sprays were double-bagged or --

14 A. No.

15 Q. -- labelled or stored in a particular place, at this
16 point. We may hear other evidence. As far as you were
17 concerned, before 9 o'clock in the morning had any of
18 those steps been taken in relation to the sprays?

19 A. No.

20 Q. Were there any spray canisters in the canteen when you
21 attended?

22 A. If it they're not at Hayfield Road then they would be in
23 the canteen.

24 Q. Were you aware of where they were?

25 A. No, but I think just with the kind of (indicates), the

Transcript of the Sheku Bayoh Inquiry

1 way they're attached to -- again, it's different for
2 every officer, whether it's their belt or if it's on
3 their vest, that there's obviously a mechanism of --
4 a bit a string that's extendable, so if it drops it
5 doesn't fall onto the ground, so I would expect it to be
6 retained on the officers' equipment.

7 Q. So probably with the officers if they had retained
8 their --

9 A. Yes.

10 Q. -- police belt and equipment and things?

11 A. Yes, which was -- as far as I was aware was all within
12 the confines of the canteen.

13 Q. Was it something you considered -- you have talked about
14 sprays and the impact it can have on people after they
15 have been discharged. Was that something you considered
16 in the canteen that day, to make sure that there wasn't
17 any interference with officers by sprays that had
18 previously been discharged?

19 A. No.

20 Q. Looking back now, do you think maybe that was something
21 that should have been given priority?

22 A. If not by me then, as I say, with the sergeant as well
23 in terms of that kind of again welfare for the officers,
24 and I suppose the physical element, if they felt
25 exposure to it, they're aware of the after-care in terms

Transcript of the Sheku Bayoh Inquiry

1 of their own self as well.

2 Q. We have heard some evidence that if you as an officer
3 get spray on you, that that can remain for quite
4 a period of time and can continue as you move to release
5 or to affect the officer. Was that something you were
6 aware of?

7 A. No, and if it was I suppose I would be reliant on either
8 the officer or the sergeant potentially that if there
9 had been potentially we could arrange that they remained
10 in the back yard area for the prescribed time to allow
11 it to kind of dissipate.

12 Q. When you talk about the sergeant, is that
13 Sergeant Maxwell you're thinking of?

14 A. Yes, because to be honest I was completely unaware of
15 the individual officers who one, discharged it and
16 secondly who potentially had the effects of it.

17 Q. And was anything along these lines raised with you at
18 any point by anybody?

19 A. No.

20 Q. We have been talking about the completion of paperwork.
21 You have mentioned a number of times taking accounts
22 from the officers. Is that something different from the
23 officers completing an operational statement?

24 A. I suppose my terminology of taking accounts would be me,
25 or arranging for someone to take a statement from

Transcript of the Sheku Bayoh Inquiry

1 someone, not necessarily officers, but in this instant
2 it would -- that terminology is different, but I think
3 what I mean is just getting their account, whether it
4 was provided by them or whether we deployed a resource
5 to obtain it from them because that's not uncommon as
6 well in serious incidents.

7 Q. And how can that actually assist the investigation, help
8 you in your role having the accounts of the officers?

9 A. It just helps with the information-gathering stage. It
10 just helps build that picture and support -- supplement
11 the information we already have to hand for other
12 witnesses or other sources of material.

13 Q. Is that something you would have liked to get at an
14 early stage?

15 A. Yes, from any witness not just the police.

16 Q. So whether they're civilian eye-witnesses or police
17 eye-witnesses?

18 A. Yes, because ordinarily it is their account -- I'm not
19 saying it is best evidence, but the more information we
20 can get, the better assessment of what has happened and
21 more importantly what we need to investigate.

22 Q. We have heard others say that as soon as you can get
23 those accounts, that's better because it's fresher in
24 people's minds. Would you agree with that?

25 A. The basic principles of a witness depend on the

Transcript of the Sheku Bayoh Inquiry

1 circumstances because they may not be fit or in a place
2 to provide a statement.

3 Q. So as an officer, what steps can you take to secure the
4 accounts of police eye-witnesses?

5 A. So ordinarily we would just be asking for -- in terms of
6 operational statements we would be asking for the
7 officers to provide their account as soon as possible,
8 unless, like these circumstances, there was something
9 that would influence or prevent that.

10 Q. And in the circumstances on 3 May in Kirkcaldy what
11 prevented you securing those accounts?

12 A. So this was basically not a consideration for me because
13 it was the -- after the stop and pause and the agreement
14 around completing existing actions, I was -- my thought
15 process wasn't allowed to turn my attention to the
16 police officers.

17 Q. So do you mean you didn't consider that at all prior to
18 the (inaudible - overspeaking)?

19 A. No, it was -- I definitely considered it but it wasn't
20 then my responsibility, having the changeover of SIO and
21 then the involvement of PIRC.

22 Q. When did you consider the possibility of securing
23 statements from the officers?

24 A. I think the chronology and the timing is that I knew
25 they were -- and again it is part of procuring each of

Transcript of the Sheku Bayoh Inquiry

1 the strands, the investigative strands -- the officers
2 were one of them in terms of the witnesses -- is that
3 they were there, they were safe, they were secure and
4 that at a point I would have probably come round to that
5 in terms of the list of priorities, but with the
6 resource and the jobs that we had at that time, I hadn't
7 really got to that juncture.

8 Q. Was that something that was on your daybook, is there
9 anything in your daybook that would help with that?

10 A. Just under the broad term of witnesses, the
11 police officers were part of -- would have formed part
12 of my witness strategy.

13 Q. So we've got on page 1 of your daybook mention of two
14 witnesses, Zahid Saeed and Martyn Dick. You have
15 mentioned that.

16 A. Yes. I was already aware that -- these were new
17 witnesses. I had already -- I was naturally aware that
18 the officers were witnesses so it wasn't a --

19 Q. Oh, so you didn't need to write that down?

20 A. Yes, I was already aware that they were going to be key
21 witnesses.

22 Q. And we have heard that one of the issues that concerned
23 the officers was their status and I think in some of
24 your Inquiry statements and the other statements you
25 have you talk about this. I would like to look at your

Transcript of the Sheku Bayoh Inquiry

1 first Inquiry statement, 133, paragraph 111. You say
2 here:

3 "What's my status?', 'Do I have to give him
4 a statement?' These were all questions that came after.
5 We know it led to the delay when the Federation made the
6 decision about them not giving a statement at that time,
7 but it was based on the fact that they weren't all safe.
8 I didn't have confidence in where we were going because
9 it wasn't my decision. Ordinarily these decisions sit
10 with me. But I knew there were discussions going on
11 with PIRC and senior management about how it would go."

12 Can I ask you a little bit more about what was
13 happening at this stage. You have talked about the
14 Federation making the decision about the officers not
15 giving you a statement at that time. Can you tell us
16 a little bit more about that?

17 A. They are questions that came after, I don't know if that
18 was at the time because to be honest there wasn't much
19 dialogue with the cops in terms of that -- the way -- in
20 fairness to them they were more concerned about the
21 condition of Mr Bayoh as opposed to any recourse for
22 them. They were naturally I think anxious about what
23 was going to ensue, but I don't think from the outset
24 I got anything back about, "What's my status about
25 a statement?" They weren't in that frame of mind at

Transcript of the Sheku Bayoh Inquiry

1 that time.

2 Q. So when it says there:

3 "We know it led to the delay when the Federation
4 made the decision about them not giving a statement at
5 that time, but it was based on the fact that they
6 weren't all safe."

7 When you say -- let me take you through that
8 sentence, "We know it led to the delay ..." What's the
9 delay you're talking about?

10 A. In obtaining -- when -- the point that the officers gave
11 their initial account.

12 Q. We have heard evidence that was 4 June, just over
13 a month later. Is that the delay you're talking about?

14 A. I was probably referring to the delay on the day because
15 again I know there was conversations -- I have been
16 educated since in terms of the kind of PIP and the
17 officers that attended for that. I was genuinely
18 unaware that they had attended for that. I know at some
19 point they had done initial actions with the officers
20 before they were allowed to go home and I think that was
21 potentially the medical forensic capture, so that
22 naturally would have been the decision about what they
23 would do and then the discussions round when they would
24 obtain their statement, but I was only involved to the
25 point -- I had arranged for the Federation to come to

Transcript of the Sheku Bayoh Inquiry

1 look out for the interests and wellbeing of the
2 officers. I was naturally aware in the days after that
3 they hadn't given it on the day. I wasn't obviously
4 aware of the date that they then subsequently gave it
5 and the discussions and dialogue around that.

6 Q. You talk about the delay on the day --

7 A. Yes.

8 Q. -- when would you have expected to have obtained the
9 officers' accounts on the day?

10 A. So I don't know because --

11 Q. In normal circumstances?

12 A. So I suppose without -- and again I know the welfare
13 thread throughout. I suppose, and selfishly for me in
14 terms of that line of investigation, I want to get that
15 information as soon as possible. So I would have --
16 when allowed to come to it in terms of the priorities,
17 the witness strategy with the officers, a resourced to
18 go and get their account, but that's me obviously not
19 taking a cognisance of as I approached that situation,
20 the position of the Federation at that time and what
21 advice they have given to the officers so -- which
22 obviously I understand is that they weren't going to do
23 it, but there was definitely a delay even to deciding
24 the approach in any case.

25 Q. So from your perspective as SIO, you want accounts as

Transcript of the Sheku Bayoh Inquiry

- 1 soon as possible?
- 2 A. Yes.
- 3 Q. That would help your investigation you would need to get
4 a resource to take accounts from the officers.
- 5 A. Mm-hm, unless I was satisfied that they could provide
6 their own.
- 7 Q. Assuming they are well enough and able to either speak
8 to somebody to give an account, or to prepare their own
9 account, how quickly would you have anticipated getting
10 an account from the officers that day?
- 11 A. I would have looked to obtain it before they terminated
12 duty, depending on how long it would take for them and
13 if they were in a position to provide it.
- 14 Q. That would have been your preference?
- 15 A. Yes, because it was in line with normal progress for
16 death investigations. If you have multiple witnesses it
17 will take time and you have to work through that with
18 the resource available.
- 19 Q. And so when you talk about the delay on the date, what
20 is the period of delay that you're referring to, the
21 fact that they didn't give statements that day at all?
- 22 A. I don't think so because I didn't know how that played
23 out. I think it was more the delay in giving them,
24 either in consultation with them, of getting round to
25 how we were going to deal with them and in what fashion,

Transcript of the Sheku Bayoh Inquiry

1 so -- and again it's similar to the delay I explained
2 about the other elements in terms of the next of kin is
3 that -- I think that's where, I went and saw them and
4 even by 9 o'clock -- they'll be able to tell you exactly
5 the lack of visibility/updates during the time that,
6 once PIRC have taken on the investigation -- they were
7 notified of what will happen to them. It was the delay
8 of the unknown for them.

9 Q. Okay. So it was the unknown?

10 A. Yes, as opposed to the delay that ensued for when they
11 gave their account.

12 Q. Sorry, I'm not entirely sure I followed that answer, so
13 I was asking you about the period of delay and am
14 I right in thinking you would have liked it as --

15 A. It was the delay on the day.

16 Q. Delay on the day. You would have liked it as soon as
17 possible.

18 A. Yes.

19 Q. But you would have had to get resources in place. You
20 didn't get resources in place, you weren't part of that
21 process, as it turned out, but that would have caused
22 some delay. So were the lack of resources an issue for
23 you that day --

24 A. They were --

25 Q. -- or was it you just didn't get involved in that

Transcript of the Sheku Bayoh Inquiry

- 1 process at all because of PIRC being involved?
- 2 A. So you're right and the delay -- like with other
3 elements, we got round to actually informing the
4 officers what was going to take place.
- 5 Q. So a delay in telling them what was happening.
- 6 A. What the plan was.
- 7 Q. A delay because you weren't involved in securing the
8 necessary resources and a delay in PIRC arriving to take
9 control.
- 10 A. Yes, but even if I was then allowed to progress with it
11 I assume now I would have encountered the same -- not
12 saying challenges, but with the Federation to say
13 "Well" -- and that's when I might have been faced with
14 what's the status, the legal thing, that that would
15 have -- so it's all good in terms of what I was looking
16 to achieve in terms of investigative strategy, but
17 naturally it had to be in line with --
- 18 Q. Of course, and we will come on to that in a moment, but
19 I'm interested in trying to work out whether there were
20 any levers or strategies that you could have adopted --
21 leaving aside the issue about Police Federation, which
22 I will come back to, leaving aside that, were there any
23 levers or strategies that you could have adopted on that
24 date to speed up the process of getting the officers'
25 accounts, or to securing the officers' accounts?

Transcript of the Sheku Bayoh Inquiry

1 A. I don't think so because I would have been met with the
2 same challenging and queries about the manner in which
3 we do it, the potential legal basis.

4 Q. And then you say in the statement we were just looking
5 at, paragraph 111 -- so we talked about the delay:

6 "When the Federation made the decision about them
7 not giving a statement at that time ..."

8 I'm interested in what you say here. We have heard
9 evidence from Amanda Givan that that wasn't her decision
10 to make and her position is she advised them they might
11 want to take legal advice, so what do you mean when you
12 say "The Federation made the decision about them not
13 giving a statement"?

14 A. So again, if Amanda has given that clarity in that on
15 their advice they have decided that, then obviously
16 I will reflect on that, but it was definitely influenced
17 by the Federation and that was the main reason that the
18 Federation were called, to provide the officers with any
19 necessary advice and guidance around about that.

20 Q. So insofar as your statement says the Federation made
21 the decision --

22 A. That's maybe just an assumption that -- so the officers
23 made a decision on the advice of the Federation would be
24 plausible.

25 Q. So was there anything that you were advised of, or any

Transcript of the Sheku Bayoh Inquiry

1 conversation you had with Amanda Givan that indicated it
2 was the Federation making that decision?

3 A. No, maybe it's just my assumption.

4 Q. Just an assumption?

5 A. Yes.

6 Q. So the Chair is not to read anything into that?

7 A. No, and it does make sense that the Federation are there
8 to provide support and guidance as opposed to making a
9 decision, but naturally it would be an influential
10 factor in that.

11 Q. And in terms of the Federation giving advice to
12 officers, you said that's part of their role to maybe
13 seek legal advice. Was that something that you could
14 facilitate, a room where officers could speak to
15 a solicitor on the phone, or take legal advice?

16 A. The police officers?

17 Q. Mm-hm.

18 A. I didn't really consider it on the day, but during my
19 time in Professional Standards definitely before any
20 formal procedure that would be the right, as any person,
21 to seek legal advice.

22 Q. Do Professional Standards make arrangements for officers
23 to make seek legal advice or speak to a solicitor?

24 A. It would be an option for the officer, not something --
25 again Professional Standards wouldn't influence, it

Transcript of the Sheku Bayoh Inquiry

- 1 would just be to make them aware of that provision.
- 2 Q. And if you as an SIO were wanting to secure accounts at
3 an early stage and officers say "I would like legal
4 advice", is that something you could have speeded
5 up/facilitated?
- 6 A. I've never -- I've never encountered that as -- during
7 my time as just trying to source or get a witness
8 statement, I have not encountered that, but I suppose if
9 they were introducing that I couldn't go against it.
- 10 Q. If an officer takes a view that they want legal advice
11 and they don't want to give an account until they've got
12 that legal advice, and that's on one side, and then on
13 the other you as SIO want their account as soon as
14 possible, is there anything you can do to bridge that
15 gap, to speed up that process, or what if the officer
16 just simply says "I'm not going to bother getting legal
17 advice, I won't do anything until I've got it, but I'm
18 not taking any steps" --
- 19 A. Then naturally I don't think I can -- I wouldn't be able
20 to compel them to give an account.
- 21 Q. As far as you were concerned, as soon as the decision
22 was taken to seek that legal advice did that bring
23 everything to a complete halt for you?
- 24 A. To be honest, again my involvement had ceased by then,
25 so I -- I obviously did get a read out of that was the

Transcript of the Sheku Bayoh Inquiry

1 stance or position. I didn't have a view on it, but
2 again whether the time delay in getting round to
3 addressing that element was a factor, I don't know, and
4 credit to Amanda she was pretty visible and vocal in
5 terms of asking for an update in terms of what's
6 happening with officers, rightly so.

7 Q. You have obviously worked at Professional Standards.

8 I'm interested in -- we have heard some evidence from
9 DS Dursley. He had never come across a situation -- in
10 fact he still hasn't come across a situation where
11 officers have refused to give accounts in a death
12 situation and we have also heard that police officers
13 are not in the same position as civilians because they
14 have ethical obligations, obligations to help the Crown
15 and obligations to investigate crime and to assist.

16 I'm interested from your Professional Standards
17 experience whether there is ever a way that the officers
18 can be influenced to, or encouraged to give accounts,
19 even if they are concerned about their status and wish
20 to seek legal advice?

21 A. I think that you're key in what you said about the
22 status, that the status is important, and again in the
23 last seven/eight years the processes and relationship
24 between Police Scotland and PIRC have dramatically
25 changed, enhanced, matured, and it's strong

Transcript of the Sheku Bayoh Inquiry

1 communications from the outset that sets the tone,
2 alleviates fears, especially with deaths in police
3 custody, death from police contact, serious injury, from
4 the outset and again because the close working
5 relationships now have matured, police officers -- one,
6 I think there's guidance; secondly, either from
7 a Police Scotland perspective or PIRC, we're saying "You
8 are a witness", at that time of the request of
9 a statement, what we're looking for that statement to
10 consist of.

11 I suppose at that time we can't compel whether they
12 then still choose to seek the comfort or reassurance
13 from the Federation, that's an option to them, but it's
14 a far quicker, seamless process now because of -- and no
15 doubt lessons learned have helped inform those processes
16 as well.

17 Q. And is that new process providing more reassurance to
18 officers who maybe are in that situation?

19 A. Whether it's even processes that existed at the time
20 here, but more just the fact that -- I'm not saying it's
21 a more common occurrence, I don't mean that, but the
22 whole involvement of PIRC is more socialised, more
23 common, there's visibility because of their inception at
24 Police Scotland and again from the lessons learned,
25 organisational learning of even feedback from their own

Transcript of the Sheku Bayoh Inquiry

1 officers as to how they perceive it and that's how
2 I suppose guidance matures and changes.

3 Q. Just to go back over what the position is now from your
4 own knowledge, you say there's guidance available. Is
5 that guidance to the officers?

6 A. Yes, I mean just in terms of the role of PIRC, the role
7 of Professional Standards.

8 Q. And what form does that guidance take now?

9 A. I think it will be all electronic originally. Our
10 policies and guidance are held within our intranet.

11 Q. That's on the intranet?

12 A. Yes.

13 Q. And you have talked about guidance about what
14 a statement consists of. Would there be information
15 available to officers nowadays about what would be
16 expected when they provide an account?

17 A. I think obviously you need to -- right at the foundation
18 of policing and then coming in as a probationer in terms
19 of the format and structure of a statement, I think what
20 I was referring to is that I would have that open
21 dialogue as to their status, the incident I was
22 investigating, what I understood their role to be, what
23 I would potentially look for, because that's kind of
24 terms of reference in their statement in terms of detail
25 and potentially elements or areas that I would look for

Transcript of the Sheku Bayoh Inquiry

- 1 them to cover.
- 2 Q. You talk about a dialogue as to status. What is done
3 now?
- 4 A. Just from the outset they know where they stand, as
5 opposed to any form of confusion or lack of clarity and
6 again it's come from -- it's not just with policies and
7 guidance, it's with line management briefings, all forms
8 of kind of continuous improvement/development of inputs
9 through various courses, officers' awareness raising,
10 addressing misconceptions, overcoming barriers,
11 perceptions.
- 12 Q. And how would the officers know where they stand now, to
13 avoid any confusion? How is that information shared
14 with them now compared to 2015?
- 15 A. Either face-to-face, or if the circumstance it had to be
16 remotely delivered through line management, even if
17 for -- and again for the stuff potentially I was
18 involved in even by email, if it wasn't something as
19 dynamic as this situation was.
- 20 Q. So in a similar situation, if it happened now, you have
21 talked about line management and others, who would be
22 involved with speaking to the officers and sharing
23 information about where they stand and their status?
- 24 A. I think that's where the post-incident procedures come
25 in.

Transcript of the Sheku Bayoh Inquiry

- 1 Q. So would that be a post-incident manager?
- 2 A. Yes, that is an early -- one of the main considerations
3 with death or serious injury following police contact or
4 in custody of -- that's a mechanism, an early --
- 5 Q. And is that considered part of the welfare of officers?
- 6 A. Yes.
- 7 Q. And then any other lessons learned in relation to that
8 that you want to mention? You have referred to the
9 phrase "lessons learned".
- 10 A. Yes, even through the forums that we have had in terms
11 of -- so policy and guidance is good, it gives us
12 a structure to work from. How that's interpreted and
13 applied basically comes down to individuals in terms of
14 their communication, so we would always look as best
15 practice now for any event, any investigation as part of
16 that kind of debrief is -- we might think we have done
17 a good job, but if the officer or individuals -- and
18 that includes even the public element, we have got
19 advocacy groups to tell us "Well, no, you didn't do very
20 well and you could have done better", and it's that
21 engagement and that's how we will try to improve our
22 working practices and the service that we deliver.
- 23 Q. But in May 2015 was there any guidance available to
24 officers at that time?
- 25 A. Potentially, but I think because of the infancy that it

Transcript of the Sheku Bayoh Inquiry

1 might not have had the chance to work through that
2 process of the deployment, the
3 interpretation/application of the guidance to then have
4 that review, debrief of "Well, is it fit for purpose?
5 Does it need to be reviewed or amended?"

6 Q. So part of your briefings and update to information
7 known to officers --

8 A. Just about the timescales when PIRC came into -- and
9 indeed Police Scotland came into being.

10 Q. We can maybe speak to Conrad Trickett about this
11 further.

12 A. Please do.

13 Q. Can I ask you about another paragraph in your statement
14 which is 142. I think this is maybe the first one and
15 I would like the second one please, if that's possible:

16 "With regards to this incident I would be surprised
17 if this was something Scott Maxwell would have
18 considered or have the confidence and knowledge to
19 submit on behalf of the officers. I also don't know
20 what year the use of force forms were introduced and how
21 familiar/competent officers were at submitting."

22 This is going back to the issue about completion of
23 the forms, use of force forms, use of spray forms. We
24 talked when we discussed that about administratively
25 line managers may be getting involved, we talked about

Transcript of the Sheku Bayoh Inquiry

1 Scott Maxwell, and you said there you didn't think he
2 would have the confidence or knowledge to submit on
3 behalf of the officers. Do you want to expand on that?

4 A. Yes, I think again 141 kind of leads into it. I think
5 it was --

6 Q. We can put that on the screen. Sorry, it's just so
7 others can see. So you -- tell us what it is about 141
8 and 142.

9 A. So probably providing that from my experience in
10 Professional Standards and as I outlined just shortly
11 ago in terms of DS keeping that conduit between
12 Police Scotland and PIRC to support them in their
13 investigations, that there is times where they're
14 potentially asked for a form that doesn't exist and then
15 maybe looked and reviewed that.

16 The officer may have been injured as a result of an
17 incident and be off sick, so the form doesn't exist
18 because the officer wasn't in a position to complete it
19 and again I wouldn't expect then either a colleague in
20 terms of potentially somebody who corroborating him or
21 the line manager to submit that, just due down to the
22 act -- not the confidence that he is not able to, not
23 got the ability, but the accuracy of the information,
24 unless he was there, so what he was submitting --
25 especially if it was then to be subject to scrutiny,

Transcript of the Sheku Bayoh Inquiry

1 I don't think that's something that we would do. We
2 would just have to indicate or record that it wasn't
3 available, or when the officer was fit to return,
4 something that they can do retrospectively.

5 Q. So just to be clear, you wouldn't have expected
6 Scott Maxwell on that day to be monitoring the
7 completion of forms, or to be assisting in the
8 completion of any forms?

9 A. Absolutely not, and nobody else for that fact, without
10 having the full information.

11 Q. And then finally on this, just to confirm, we have heard
12 some evidence that officers were told by different
13 people that they were witnesses and that may have not
14 been reassuring. Can you confirm for me that knowing
15 that PIRC were going to be involved and come in at
16 a later point that day, would it have been possible for
17 PIRC to take a different view on the status of officers?

18 A. Potentially, if they were in possession of information
19 that changed what initially was my assessment in terms
20 of being witnesses.

21 Q. So in the morning I think you viewed them, you have
22 said, as witnesses, but that may have changed once PIRC
23 became involved?

24 A. Potentially.

25 Q. And can you explain why you viewed them as witnesses

Transcript of the Sheku Bayoh Inquiry

1 rather than suspects?

2 A. There was just no information to suggest any criminality
3 on the part of the officers, from what I had heard in
4 terms of the response to my observations when I was
5 there, to then information that I have gathered in the
6 aftermath.

7 Q. Right, we will come back to that. You have mentioned
8 how communications with PIRC and the police have
9 improved over the years and can you explain to us how
10 that communication has improved between maybe
11 Police Scotland saying to officers, or your witnesses,
12 but the uncertainty about how things would change with
13 PIRC -- is there more consistency now between the views
14 of the police and the views of PIRC?

15 A. I think that -- and again just to prevent any like
16 conflict or difference in messaging, I think the PSD is
17 part of that review and any referral or notification to
18 PIRC, I think the information at PSD -- so the
19 information I've had, I was notifying PIRC of a matter,
20 that would be established as part of that contact and
21 even if it was Police Scotland reaffirming to the
22 officers about the PIRC involvement and clarity around
23 their status and then when PIRC deploy they would
24 probably reaffirm that face-to-face.

25 Q. So the communication now would be improved?

Transcript of the Sheku Bayoh Inquiry

1 A. Yes.

2 Q. And how does that compare to the situation in 2015?

3 A. Well, for me I didn't -- I wasn't -- I didn't have that
4 knowledge, so it was really the unknown and I suppose
5 that's where potentially the confusion/doubt set in.

6 Q. I'm going to move on now to events in the afternoon.
7 Before I maybe do that -- given I have a couple of
8 minutes -- you mentioned yesterday action logs, or
9 action books, and I think we have now got a hard copy
10 available in the folder for you and I will just speak to
11 you very briefly about this. if we could put that on the
12 screen. You will see one of the front pages says,
13 "Police Scotland Action Book - Death of Sheku Bayoh".
14 There we are. It is dated 3 May 2015, do you see that?
15 Do you have the hard copy?

16 A. I do, yes.

17 Q. Can I just ask you some quick questions about this.
18 When was this action book prepared?

19 A. So the time of the actions, in the middle columns we see
20 "Resulted" time, time and date, so and then that was
21 probably in keeping with the conclusion of the first
22 Gold Group, so anything that was on my daybook would
23 be -- and it's obviously retrospective entries to start
24 with to get yourself back up to speed to where you're
25 at, to then any new actions from fresh information.

Transcript of the Sheku Bayoh Inquiry

1 Q. Right. I would quite like to go through -- can we look
2 at the next page please and I'm not sure we're going to
3 be able to see all of this on the screen but -- oh, yes,
4 we can. There, that's fantastic.

5 So left-hand column "Action", "Time/date raised", it
6 just says number 1 and then it says "Obtain copy of call
7 card" and is this all your handwriting?

8 A. Yes.

9 Q. And then "Origin source SIO" and allocated to you,
10 DI Robson, and then the time given in the next column is
11 1400, 3/5/15 date. Does that mean that's when you
12 started writing this, at 2 o'clock?

13 A. No, that's when it has resulted in -- it is indicative
14 of the time I did because, I think I explained, during
15 the infancy of it when briefing to DS Dursley that we
16 had the call card, I was in possession of that, so as
17 I populated the action book, I resulted it because I was
18 in possession of that action, so the action was resulted
19 and that's part of the kind of retrospective recording.

20 Q. So when do you think you started preparing writing the
21 action book?

22 A. That would be it because that was more or less probably
23 at the conclusion of the first Gold Group meeting.
24 Sorry, that's not accurate, that was half past 11, but
25 not far after that because that was -- basically my role

Transcript of the Sheku Bayoh Inquiry

- 1 after was the summary of the Gold Group and then
2 thereafter consolidation of all the information and
3 enquiries to date.
- 4 Q. So the first Gold Group meeting is at 11.30. You attend
5 that, Detective Superintendent Campbell is there.
- 6 A. Yes.
- 7 Q. You give the update, you note things in your daybook, we
8 have gone through those, and then in the early
9 afternoon, roundabout 2 o'clock in the afternoon, you
10 start preparing the action --
- 11 A. And prior to that I have compiled the summary from the
12 first Gold Group because there was a priority around
13 that for the purpose of PIRC attending next so --
- 14 Q. As an update to PIRC?
- 15 A. Yes, so I don't know when the first Gold Group
16 concluded, but the chronology of the Gold Group, me
17 doing the summary -- because that was a priority to try
18 and -- part of the strategy and all of the strands --
19 that was prepared in a Word document from my notes in my
20 daybook and then once I had submitted that, effectively
21 to help assist with the briefing to senior management,
22 I turned my attention to really what my role thereafter
23 was, the action book and my own statement.
- 24 Q. Just very quickly, looking through the action book you
25 said yesterday -- I was asking you about the events of

Transcript of the Sheku Bayoh Inquiry

- 1 A. Yes.
- 2 Q. And is this prepared from your memory of events?
- 3 A. Yes, supported by the information that I had to hand at
4 that time when populating it.
- 5 Q. So other documents that you may have, things such as
6 your daybook, entries in that -- I think yesterday you
7 talked about taking things from the daybook and putting
8 them into the action books.
- 9 A. That's correct.
- 10 Q. Right. And looking at this page, could you explain to
11 the Chair what he can see here in the action book? We
12 see on the left-hand side numbers and I think they move
13 from 1 upwards in order.
- 14 A. That's correct.
- 15 Q. And then there's an action listed, but can you explain
16 the remainder of the pages please.
- 17 A. Probably more importantly it says the numerical order,
18 in that should be the time and date that the action was
19 created.
- 20 Q. Oh, right.
- 21 A. Whether that's -- whether I was consciously aware of
22 that and the fact that it was 1400 that I started
23 populating for the majority of the actions because
24 actually, on the last page, I do time and date the
25 action and when the handover was.

Transcript of the Sheku Bayoh Inquiry

- 1 Q. Let's look at the last page then. So this whole
2 document has been prepared by you?
- 3 A. Yes, between -- so effectively between 1400 hours on the
4 3rd to when I handed it over at 1220 hours on the 4th to
5 the MIT officers.
- 6 Q. And we see on this final page, in the left-hand column,
7 there is a time, 12.20?
- 8 A. Yes.
- 9 Q. So that's not a numerical number in terms of the order.
- 10 A. No, that's the time that I basically concluded my
11 involvement with the action book and handed it over.
- 12 Q. It was started on the 3rd and continued until 12.20 on
13 the 4th?
- 14 A. Yes.
- 15 Q. And was this on a rolling basis you would continue
16 entering --
- 17 A. Yes, and, as I say, it would be more -- I suppose I knew
18 it to myself but it would certainly have been helpful to
19 know not so much with the original actions, but the time
20 and date when I created the action because obviously
21 there is a space for it.
- 22 Q. So on 4 May you then handed this over you say to a
23 DS Moore, but let's go back to the first entry and just
24 you can explain to the Chair what he can see in this
25 book.

Transcript of the Sheku Bayoh Inquiry

1 A. So for fullness and how it should probably have been
2 depicted was -- so action 1, 01, should have contained
3 1400 on the 3rd of the 5th because that's when I created
4 it. It was to obtain a copy of the call card, so that's
5 the specific action. The origin/source is where is the
6 reason for this action come from, SIO, so that was for
7 me. Who did --

8 Q. You were SIO?

9 A. Yes, who did allocate it to, me, because I was in
10 possession of the call card. It then went into the file
11 at 2 o'clock because it was the time that I put it into
12 the file.

13 Q. And so it says you were allocated the task, DI Robson,
14 that's when you completed that task, 1400 hours that
15 day, and the resultant document was put in the file?

16 A. And the numerical number of that document, so I think
17 there whether -- I don't recall if that's my writing but
18 is that document 6 in the faded writing in the document
19 summary.

20 Q. In the right-hand column it says D6. We can see another
21 one, D7, just below that?

22 A. Yes and you would normally populate a file for documents
23 and populate a file for statements so any action if it
24 has resulted you would know what the corresponding
25 reference number is.

Transcript of the Sheku Bayoh Inquiry

1 Q. So the call card is a document, it's put in the
2 documents section of a file and that would have been the
3 sixth document in the file?

4 A. Yes.

5 Q. And then we will see that there are diagonal lines
6 through number 1, number 2, number 3, but as we get
7 towards the end of your action book those diagonal lines
8 don't appear. Can you explain what the significance is?

9 A. I don't think there's any guidance round it. That's
10 probably for my benefit because obviously the multiple
11 number of actions in terms of when you're going back
12 through them to see what is completed and what's not.
13 It's clear when you open the page with a score across
14 for my benefit, being in charge of the action book at
15 that time, that would be a completed action.

16 Q. And then just can we look at -- I have it as page 9.
17 It's action number 12. And this says:

18 "Carry out enquiries in an effort to identify
19 deceased male."

20 Allocated by the SIO to DS Davidson and DC Connell
21 and is that what you talked about earlier about
22 DS Davidson and DC Connell going to Victoria Hospital to
23 try to identify --

24 A. So obviously DC Connell was already there, I think
25 DS Davidson had come back, we had discussed the options

Transcript of the Sheku Bayoh Inquiry

1 to try and identify Mr Bayoh. I think we had considered
2 the police systems because there was an existing image
3 on police systems. I think it was the age of that in
4 terms of the likeness, what was the current likeness and
5 I think what was found on Facebook had a most current
6 likeness of appearance.

7 Q. And so when we look at this now do we see that under 12
8 it would have been helpful to see a time of when that
9 was actually created, that's not there, but then we can
10 see there the time that the action has been completed
11 and that says 1800 hours?

12 A. Yes, and the completion is normally administrative
13 completion, it's when -- as opposed to you will see in
14 the document summary that the context of that is that
15 that was carried out at 11 o'clock.

16 Q. So is there anything in this action book that suggests
17 you want to change your evidence from earlier about
18 DS Davidson going to Victoria Hospital at around about
19 11.00 in the morning?

20 A. No.

21 Q. And it says there:

22 "11.00. 3/5/15.

23 "Facebook image of deceased~..."

24 Does it say:

25 "... compared at hospital...?"

Transcript of the Sheku Bayoh Inquiry

- 1 A. Yes.
- 2 Q. "... and visual ID confirmed."
- 3 So is that a note by you --
- 4 A. That's correct.
- 5 Q. -- about the actions that were taken by DS Davidson?
- 6 A. Yes.
- 7 Q. Can I look at page 10, which is strategy 14, action 14
- 8 I should say. This says:
- 9 "Establish interview strategy for officers involved
- 10 in incident with regards to~..."
- 11 A. "... noting of statements."
- 12 Q. "Noting of statements". Tell us about that?
- 13 A. So again it was a task that would need to be considered
- 14 and carried out. Though I was the origin because it's
- 15 something that I identified needed to take place and in
- 16 terms of allocated to, maybe should have distinguished
- 17 the SIO at that time, I was probably looking towards
- 18 Detective Superintendent Campbell in conjunction with
- 19 the PIRC.
- 20 Q. So thought of by you as SIO but then passed on to
- 21 Detective Superintendent Campbell?
- 22 A. Correct.
- 23 Q. And we see some lettering in the right-hand side there,
- 24 handwriting. Can you tell us what that means?
- 25 A. Yes, that's not my writing. So again, whether that

Transcript of the Sheku Bayoh Inquiry

1 was -- I'm assuming if that was put on to the original
2 document, whether that's corresponding -- but A, whether
3 that's -- it looks like A10 and A17, some
4 cross-reference to another action book, whether that
5 was -- I don't know if HOLMES was used or if PIRC had
6 their own action book, I am not sure.

7 Q. But this was on 5 May. Is that the time -- the time
8 seems to be --

9 A. So it's the -- so it's not my writing and that's
10 obviously been entered onto the action book once I have
11 handed it over to the MIT, so whether that's the MIT's
12 writing in terms of corresponding actions, a resulting
13 action log they created, or PIRC, I don't know.

14 Q. Then action 18 on page 11 we can see there:

15 "TST Colette Bell."

16 What does that mean?

17 A. So trace and take statement, that's what TST stands for.

18 Q. And you have given a link there to a Police Scotland
19 reference number?

20 A. That would probably be the -- well -- it would be the
21 call card number that was raised following her call to
22 the police.

23 Q. Then what do you write underneath that?

24 A. So I've reiterated the link to where the origin of my
25 action has come from:

Transcript of the Sheku Bayoh Inquiry

1 "Reported concern for boyfriend, Sheku Bayoh born
2 30/09/83. Disturbance at her address and had received
3 a call from friend stating he had been assaulted by
4 Bayoh."

5 Q. And this is allocated to DC Parker and DC Mitchell?

6 A. Yes, in the knowledge at that time that they had engaged
7 with Colette, yes.

8 Q. And that would have been via DS Dursley?

9 A. Yes.

10 Q. And then you note in the right-hand, 10.45, on 3 May
11 "Informed of circumstance"?

12 A. So yes, the statement as the action pertains to was
13 resulted at 18:30 and then the additional context is
14 because as part of that statement I think that was the
15 death message.

16 Q. Can I ask you about action 30 please. Can you read out
17 what we see here?

18 A. "Identify intelligence cell to carry out checks/profile
19 of all parties involved."

20 Q. And that's -- the origin of that is SIO and then it
21 says -- in terms of who it is allocated to what does
22 that say?

23 A. So that's Fife DIO, which is the divisional intelligence
24 office, our intelligence function for the division.

25 Q. And then it says in the right-hand column what?

Transcript of the Sheku Bayoh Inquiry

- 1 A. "Intel profiles created for Colette Bell and
2 Sheku Bayoh."
- 3 Q. Tell us about this entry please?
- 4 A. So at the time that I have -- at the time that I'm in
5 control of the action I have asked for checks,
6 background checks to be carried out for all parties
7 involved, probably in terms of the civilian element as
8 opposed to the police, to help build that
9 picture/background to the events. At the time that
10 I have handed it over I have only been in possession of
11 profiles for Colette Bell and Sheku Bayoh.
- 12 Q. What was the purpose of actioning intelligence cells to
13 carry out checks?
- 14 A. It's a function to support an investigation in terms of
15 what information do we hold on police systems for the
16 investigation.
- 17 Q. And how would information about Colette Bell help
18 support the investigation?
- 19 A. Until we had done the checks we wouldn't know in terms
20 of background -- and it's a variety of systems, it's not
21 that we're just looking -- not to criminalise it, the
22 fact that she had been involved with the police, we just
23 have access to a number of our own systems and partners'
24 systems that would just help build that information
25 picture.

Transcript of the Sheku Bayoh Inquiry

- 1 Q. Building a picture of information?
- 2 A. Another source of information, and until we had carried
3 that out we wouldn't know of any relevance of what to
4 discount or potentially include as part of the
5 investigation.
- 6 Q. Is that customarily done in relation to partners of
7 people who have died?
- 8 A. It's everybody, yes.
- 9 Q. So, although you have only mentioned Colette Bell and
10 Sheku Bayoh there, would that -- would those checks have
11 been carried out on all the witnesses?
- 12 A. That would be my expectation, yes.
- 13 Q. And then in relation to Sheku Bayoh, is it something
14 that's customarily done if someone is deceased, has
15 died?
- 16 A. So again, all parties.
- 17 Q. Then can we look at action 34 please. Could you read
18 out this action?
- 19 A. 34 did you say, sorry?
- 20 Q. 34, yes?
- 21 A. "Arrange formal identification of deceased by [next of
22 kin] or appropriate family member/associate."
- 23 Q. And when it says the origin of that is SIO, was that
24 yourself?
- 25 A. Yes.

Transcript of the Sheku Bayoh Inquiry

1 Q. And that was allocated to -- it says "SIO PIRC" there?

2 A. So again that would have been done in conjunction with
3 Detective Superintendent Pat Campbell as part of the
4 handover to PIRC.

5 Q. Was it your expectation, at the time you completed this
6 entry, that there would be a formal identification of
7 Mr Bayoh by his next of kin?

8 A. Not necessarily having been completed, but arrangements
9 or certainly that action explored. Again, because of
10 the death in terms of the primacy with Procurator
11 Fiscal, maybe in conjunction with them.

12 Q. Can I ask you about action 44 please. It says:

13 "Procurator Fiscal to be notified regarding death."

14 And the result is 1200, 4/5/2015. How reliable are
15 the timings in relation to that?

16 A. So they're reliable in terms of the time that I have
17 resulted the action. Again, probably -- it's not
18 indicative of when it was carried out.

19 Q. We may hear that the Fiscals were notified on 3 May?

20 A. I would expect during the morning of the 3rd definitely.

21 Q. So if the Chair is considering this document at a later
22 stage, he should bear that in mind when he is reading
23 the result timings?

24 A. I would expect it to be contained within someone's
25 statement who picked up the phone to the -- whether it

Transcript of the Sheku Bayoh Inquiry

1 was the on call to start with and resulted -- obviously
2 it referenced Mr Green.

3 Q. So individual statements from witnesses and we may hear
4 indeed from Mr David Green that those statements will
5 probably be more accurate in terms of timings of when
6 things were done?

7 A. Yes.

8 Q. Thank you. I said -- I will move on from the action
9 book. I said I would like to ask you some questions
10 about the death messages and I would like to begin with
11 the death message that was relayed to Colette Bell first
12 of all, so this is in the morning on 3 May when she is
13 in Kirkcaldy Police Office?

14 A. That's correct.

15 Q. We have heard evidence from Mitchell and Parker about
16 that and also from DS Dursley and I would like to ask
17 you if you recollect the conversation you had with
18 DS Dursley about delivery of that death message to
19 Colette Bell?

20 A. I don't specifically recall the full content of the
21 conversation, but I definitely recall the resulting
22 action of -- the agreement of what we were going to do.

23 Q. We have heard from DS Dursley about this discussion that
24 you had and we have looked at his daybook. Did you see
25 any of DS Dursley's evidence, or watch any of his

Transcript of the Sheku Bayoh Inquiry

1 evidence?

2 A. Really only what played out in the media as a result.

3 Q. So just to recap on his evidence regarding his daybook,
4 he had an entry within that where he had noted that
5 Colette Bell was to be given a death message and the
6 words he noted down from your conversation were, "Black
7 male dead", and then I asked him about certain phrases
8 and words and descriptions of that death message that
9 arose in subsequent statements that he had prepared the
10 next day and in June, so a month later.

11 Do you remember what words were used by you during
12 the conversation you had with DS Dursley?

13 A. No, I don't. It was just the overriding sense of
14 purpose that she needed -- having engaged earlier with
15 a call that she had made and officers attended, for her
16 to be brought back to the police station for us then to
17 learn that Mr Bayoh had died, it was just the kind of
18 universal agreement that Colette Bell needed to know
19 that he had died.

20 Q. Is there anything at all in your daybook that would help
21 you recall the words that were used?

22 A. I don't think so, and again unlike I know the form of
23 words that potentially do form part of the later
24 notification, it's not something that we sat and
25 deliberated for any great length of time. We had

Transcript of the Sheku Bayoh Inquiry

1 obviously tasked officers with the main purpose of
2 contacting her as part of that information gathering.
3 It just seemed the right, moral thing to do at that
4 time, not appreciating the impact as a result of what we
5 did.

6 Q. And was there anywhere that the wording of that message
7 was noted down?

8 A. No.

9 Q. Is that normal practice, to not note those down?

10 A. Not when providing a form of words which I have really
11 had no previous experience of.

12 Q. Did you have previous experience of delivering death
13 messages --

14 A. Regularly, yes.

15 Q. -- up to 3 May? Had you ever noted them in your
16 notebook, for example?

17 A. The time and date of the notification, yes. As to any
18 conversation or context, no.

19 Q. No. Is there anything at all in your action book that
20 would help you have any recollection of that
21 conversation you had with DS Dursley?

22 A. I think it just tells you that action about trace --
23 taking a statement from Colette in terms of the time we
24 talked about -- it says there, "Inform the
25 circumstances", whereas we didn't inform the

Transcript of the Sheku Bayoh Inquiry

1 circumstances, we informed them of the death.

2 Q. You make a distinction there. Can you explain what that
3 means?

4 A. Well, I just mean you have just brought to to my
5 attention in terms of I have noted at the time that we
6 have told her -- informed her of the circumstances,
7 which is actually incorrect.

8 Q. Was there any discussion between you and DS Dursley
9 about the extent to which you should explain to
10 Colette Bell what had happened?

11 A. No, and I think the overriding factor was to tell her
12 that he had died. There would be conversation and
13 I don't think -- it definitely looks -- on the face of
14 it looks quite cold and calculated to ask our DCs to go
15 in and say, "Following reported concerns for
16 Sheku Bayoh, he has died", without providing some form
17 of wraparound in that. Appreciating that I had never
18 met Colette Bell, we can't really -- I had trust and
19 confidence in our officers with the skills and
20 experience that they've got to go in and manage that
21 conversation and during that deliver and be quite
22 specific because if we go in with a conversation and
23 they miss the death message, it has to be quite pointed
24 that -- to reinforce the fact that he has died because
25 again, lessons learned, when we have went in

Transcript of the Sheku Bayoh Inquiry

1 conversational, they have maybe missed that and not been
2 clear that the person involved had died.

3 Q. Do you remember any part of the conversation where it
4 was agreed that the circumstances, insofar as it related
5 to police contact, would not be shared with
6 Colette Bell?

7 A. Not insofar as specific to the police contact, any of
8 the details because by not telling her about the police
9 contact we had been consistent by telling her nothing
10 else as well, in terms of even details of what led to --
11 the calls that led police to go to Hayfield Road that
12 day.

13 Q. We have heard from Mitchell and Parker that this is not
14 a pleasant job for officers to do. Do you -- and did
15 you anticipate that there would be difficulties with
16 delivering a death message to Colette Bell if the
17 information was so limited that you were simply telling
18 her her partner may have died?

19 A. By telling them only to go and deliver the death message
20 it is I suppose less difficult in terms of the
21 messaging, but the difficulty thereafter is the response
22 and the questions that no doubt will have been posed and
23 faced with just as a result of introducing the fact that
24 he died. So it seems quite remiss that we have not
25 discussed what to tell her and we have not told her very

Transcript of the Sheku Bayoh Inquiry

1 much.

2 Q. You feel that you were remiss in that?

3 A. Yes, because it just smacks of being quite cold and
4 calculated, not the way it was intended. Also that
5 process over people as well in terms of the person it
6 was impacting. I obviously went through the kind of
7 strands of the investigation and like that checklist and
8 it was at that time with the pace of it and other things
9 that was going on I think -- I made the decision and
10 I stick by it, it was the right thing to do, but maybe
11 not then giving further thought of what are we actually
12 telling her. Again, reliant on the skills and
13 experience of the officers, potentially talk about the
14 generic processes in terms of death investigations,
15 not -- involving the police in terms of process as
16 opposed to the physical involvement of the police that
17 this related to.

18 Q. Can I ask you to look at your second Inquiry statement,
19 SBPI 251, and paragraph 172. We have that on the
20 screen:

21 "I have been told that DS Graeme Dursley states ...
22 the following: ' ... whilst I did think it was
23 Sheku Bayoh who was dead, at that time there was no
24 formal identification so between me and Colin Robson we
25 delegated Wayne Parker to tell Colette Bell words to the

Transcript of the Sheku Bayoh Inquiry

1 effect that, 'a black male had been found dead and we
2 suspected that it may be her partner'. We based this on
3 the fact that there was a black male dead and that
4 a gold coloured mobile phone was found at the locus ...
5 The wording of the death message is not recorded
6 anywhere in any format'."

7 And then at 173 you say:

8 "Yes, I agree with that. Recording the wording is
9 irrelevant as long as she is told and it is documented
10 the statement."

11 You see the words in quotation marks there:

12 "... 'a black male has been found dead and we
13 suspected that it may be her partner'."

14 Is that your recollection of the message that was to
15 be delivered to Colette Bell?

16 A. So again the point of having this element noted for
17 maybe the Inquiry team it was do I concur that words to
18 that effect were used, because obviously they were
19 introduced by DS Dursley. That was, yes, accurate --
20 because they were the words he used I didn't -- yes,
21 I didn't fall out with that or challenge it, knowing the
22 focus of -- well, certainly one word in that paragraph.

23 Q. So you're aware that we have had discussion -- we have
24 taken the evidence of DS Dursley in relation to the
25 words "Found dead"?

Transcript of the Sheku Bayoh Inquiry

1 A. Yes, and again if it was a conscious effort at the time
2 to try and hide the police involvement, then that's
3 probably something that I would have thought I would
4 have picked up on. I think I would be -- was this the
5 general terms of what we were telling her? Yes,
6 appreciating the kind of -- and by no means play on
7 words, but the interpretation and what perception round
8 that, that one word and how that changes that image --
9 if those words were to say to someone the image that
10 they would potentially portray in their mind.

11 Q. So the words "Found dead", you're aware of the evidence
12 regarding that because you have seen some of
13 DS Dursley's evidence already?

14 A. Yes.

15 Q. And you will then understand that we have heard evidence
16 from Colette Bell that she understood he had been found
17 dead and had perhaps been murdered and then found
18 subsequently dead?

19 A. Mm-hm.

20 Q. You will also know that I asked a number of questions to
21 DS Dursley about the lack of information given to
22 Colette Bell about police contact.

23 A. I'm not sure I saw that. It was more effectively
24 the headlines of that word.

25 Q. Do you know why there would have been -- why there was

Transcript of the Sheku Bayoh Inquiry

1 a decision taken not to tell her about the police
2 contact?

3 A. I don't, and to be honest I have given evidence that the
4 transfer of that senior investigating officer oversight,
5 that decision sat with me and I think we were very --
6 without any consultation that we were comfortable
7 that -- my words is that she needs to know he has died
8 would be my interpretation, or my view of what we were
9 telling her, tell her that Sheku Bayoh has died, but
10 without giving her context around it. That's what
11 I still really struggle with and, as I say, I have
12 worked with DS Dursley for a number of years and we
13 are -- we have been our biggest critics around this is
14 that taking away the contact element of the police,
15 there was no police involvement, we would be going to
16 Colette Bell and telling her pretty much the details
17 of -- well, her concerns related to a call that we had
18 just attended essentially and just that chronology of
19 taken to hospital and, "I'm sorry to say now he has
20 died". That certainly gives accuracy around it and
21 a better picture.

22 Don't get me wrong in terms of I wouldn't be able to
23 account for her reaction because there would be
24 questions as a result, but we do this on a daily basis
25 and we have --

Transcript of the Sheku Bayoh Inquiry

1 Q. Why would you not wish to tell Colette Bell that he had
2 died after police contact? He was alive when the police
3 arrived at Hayfield Road.

4 A. Yes.

5 Q. He subsequently died after police contact. You will
6 understand --

7 A. I definitely do and whether -- again, I talked about the
8 second-guessing and my judgments of was I allowed to say
9 that? Was it my position to say that, knowing the
10 involvement of PIRC? I don't know. But it was the --
11 by introducing it without providing some form of context
12 or detail in the --

13 Q. Was there an attempt to hide the fact that there had
14 been police contact?

15 A. Absolutely not and why would it be when it was so public
16 facing? And if it was an attempt, it would soon
17 quickly -- very quickly be found out and there was no --
18 this wasn't a discussion to try and -- how do we get
19 round this and hide the police involvement? The
20 discussion, as difficult as it might be for people to
21 see, was trying to do the best thing. We were very
22 accustomed to the process and this is where I talked
23 about the process maybe got us instead of considering
24 the people that affected it and I have seen the
25 impact -- it's bad enough telling somebody they have

Transcript of the Sheku Bayoh Inquiry

1 died and I suppose we can't -- we cannae stop the trauma
2 involved in that but if we add to that to the manner we
3 have done it, that's what sits -- doesn't sit well with
4 me and what I have struggled with.

5 Q. Why would it be doing the best thing to not tell
6 Colette Bell that there had been police contact?

7 A. So it seemed the right thing to do and tell her as soon
8 as we had been notified he had died. Colette had
9 reported concerns, we were satisfied roundabout the
10 identification, it was the kind of collective thing with
11 me and DS Dursley, "She needs to know". What bothers me
12 is the lack of us then sitting down and carefully
13 considering, "Well, what are we telling her? Do we tell
14 her but don't tell her much more?" And the agony that
15 has caused which I have seen.

16 I suppose thinking in retrospect if we had not told
17 her and maybe sought clarity of what we were going to
18 tell her then does that leave us open to further
19 criticism of delaying that? So definitely a kind of
20 moral kind of quandary. We did it, I think we did it
21 for the right reasons but we definitely didn't deliver
22 the service that we should as part of that.

23 Q. So looking back now, what information would you have
24 provided to Colette Bell if you were looking back now
25 and trying to --

Transcript of the Sheku Bayoh Inquiry

1 A. I would have provided the same update that I provided to
2 senior management in effect, potentially tailoring it to
3 suit obviously telling a member of the public that --
4 she had called the police about concerns, we would have
5 told her that prior to her phoning there had been
6 a call, a number of members of the public -- I don't
7 even know if I have to go on about the bit about the
8 knife, whether it is concerns, again just maybe
9 generalising, police have attended, had contact with
10 Mr Bayoh, he has become unresponsive, unconscious, he
11 was conveyed to hospital and he has died. To then --
12 I suppose that then, speaking with confidence and what
13 I know now in terms of the process that would ensue, in
14 terms of -- as a result of death following police
15 contact and my confidence with this is what's going to
16 happen. I wasn't aware of that at the time.

17 Q. And if you had been delivering a message with more
18 information, which is what you're describing, would you
19 also have mentioned -- or could you also have mentioned
20 that he was being -- police were trying to arrest him,
21 trying to restrain him and then he became unconscious?

22 A. At that time probably not because again I'm introducing
23 stuff -- and we have -- I'm very conscious that if I'm
24 introducing information that I don't know to be
25 factually correct that I have had circumstances

Transcript of the Sheku Bayoh Inquiry

1 previously -- and this is by no means telling Collette
2 very little from my lessons learned but I have had times
3 that stuff has been played back to us that's found to be
4 factually incorrect, so there is a balance in terms of
5 doing the right thing, which is all good and well, but
6 then to go and deliver it in a fashion that's caused
7 further traumas is not acceptable.

8 Q. Now, a moment ago I have you down as saying you weren't
9 allowed to say -- you used the phrase, "Not allowed to
10 say about police contact", and I just want to ask you
11 why would you not have been allowed to mention police
12 contact?

13 A. My lack of understanding of the processes. By no means
14 was that an instruction or any suggestion that during
15 your Inquiry or your actions, "Don't mention the police
16 involvement", but by not mentioning -- we were
17 consistent because we told her nothing. We didn't
18 introduce the fact that the calls with the knife and
19 then failed to mention the police, we told her nothing.
20 But again that was -- yes.

21 Q. And did that decision to tell her as little as that have
22 anything to do with the situation with PIRC?

23 A. It definitely prayed on my mind of what was I allowed to
24 say. I didn't seek clarity either and I wasn't given
25 instruction but she needed to know as soon as

Transcript of the Sheku Bayoh Inquiry

1 practically possible and I think with the full intention
2 that we would support it, we would be back to tell her
3 very quickly more, so it wasn't introducing the death
4 and then just silence from the -- it was aimed at me
5 then potentially liaising with senior management to
6 notify them and inform Colette Bell of the death, then
7 go back potentially with a form of words or
8 circumstances.

9 Q. When you say that you knew or you think you would be
10 back very quickly, we know from your earlier evidence
11 this morning that you were aware that there was to be
12 a stop put on it effectively by PIRC, who were going to
13 come in and take over, so by the time Colette Bell has
14 come back to Kirkcaldy Police Office at about 10.45, is
15 it correct to say that you thought you would be back
16 very quickly, knowing at the same time that PIRC were
17 going to take over and put a stop on your actions?

18 A. Yes, and I think as I say we were never told not to tell
19 Colette Bell that he died. We -- myself and DS Dursley
20 made that decision, being the right thing to do. I have
21 then obviously went to that update to the Gold Group.
22 Whether I was hoping for some form of clarity/guidance
23 from there to go back and supplement information ...

24 Q. So you thought that you would be going back to
25 Colette Bell at some stage after the first Gold Group

Transcript of the Sheku Bayoh Inquiry

- 1 meeting?
- 2 A. Yes, because our involvement with her had definitely not
3 ended. It was going to be an ongoing element,
4 appreciating the information that we were still looking
5 to get from her as part of that information gathering.
- 6 Q. Can I move on and ask you about the death message that
7 was delivered to Kadi Johnson and her family. Correct
8 me if I'm wrong, but I think the evidence we have heard
9 so far is that your involvement was in relation to the
10 first death message that was delivered to the Johnsons?
- 11 A. I wasn't involved in that.
- 12 Q. You weren't involved. Were you involved in a discussion
13 about delivering the death message to the Johnsons?
- 14 A. The discussion was during the gold strategy, or the
15 Gold Group, sorry, in terms of that next of kin contact
16 with the view or instruction from PIRC that it was to be
17 the first contact where the Johnson family was going to
18 meet family liaison officers. Again I think that kind
19 of explained my frustration that it was going to be --
20 to take time to do that.
- 21 Q. We have heard some evidence that the officers Mitchell
22 and Parker attended initially at the Johnsons' house to
23 deliver the first death message and the position was
24 very similar at that stage to the one that had been
25 delivered to Colette Bell, but they then returned for

Transcript of the Sheku Bayoh Inquiry

1 a second visit at a later stage and the evidence we
2 heard from DS Dursley was that he had been in direct
3 contact with Detective Superintendent Campbell about the
4 second death message, but as I understood it that was
5 only in relation to the second death message, not the
6 first.

7 So do you remember having any discussions with
8 DS Dursley about the first death message that was
9 delivered?

10 A. No, it -- again, my role in terms of -- from going into
11 that first Gold Group as the SIO, handing over to
12 Detective Superintendent Pat Campbell who became the SIO
13 so when that Gold Group ended, he had assumed obviously
14 investigative oversight, my role was -- I'm not saying
15 purely administrative but I explained about doing the
16 summary for the Gold Group again to help aid PIRC when
17 they arrived and also the administrative terms of
18 committing to paper in terms of recording our actions
19 and that was that action group.

20 I was definitely aware later about the form of words
21 and I know I remember speaking to, I think it was
22 DS Dursley, in terms of his views round that but
23 never -- he was effectively being directly tasked by the
24 SIO which had changed at that point.

25 Q. Can we look at paragraph 180 of your Inquiry statement

Transcript of the Sheku Bayoh Inquiry

1 please. It should say:

2 "I have been told Dursley stated to the Inquiry ..."

3 Sorry, I thought we were on the second Inquiry
4 statement. That's my fault. 180:

5 "I have been told Graeme Dursley stated to the
6 Inquiry that I was involved in this. I wasn't supplied
7 the form of words. It's accurate that I was the point
8 of contact for senior management. I wasn't involved in
9 the form of words. I don't know who did. I didn't task
10 Graeme Dursley to give the form of words. We were all
11 in Kirkcaldy Police Station. It certainly wasn't me.
12 I appreciate the delay is a significant element to how
13 this is playing out in the public. I'm not trying to
14 shy away from that. Even in the Gold Group there were
15 discussions of management going to meet the family. In
16 the early stages that's not practical and think that
17 happened later."

18 So does this -- insofar as you are referring to
19 death messages delivered to the Johnsons, is your
20 position that you had no involvement in the wording for
21 any of the death messages that were delivered to the
22 Johnsons?

23 A. No, we didn't supply a form of words to Colette Bell and
24 I wasn't involved in the messages to the family, either
25 the initial contact and then the follow-up with the form

Transcript of the Sheku Bayoh Inquiry

1 of words.

2 Q. And we may also have heard evidence that at some point
3 in a Gold Group meeting -- to give some context here,
4 DS Dursley talked about his concerns about the delay in
5 giving more information to the family and he was
6 concerned about wishing to be in a position to provide
7 more information to the Johnsons in a second death
8 message and as part of that he was, as I understand it,
9 in touch with you when you were at a Gold Group meeting
10 and you asked Pat Campbell to come out of that meeting
11 to discuss the wording of a death message. This is in
12 his statement.

13 Do you remember being asked to leave or come out of
14 a meeting with Pat Campbell to talk about the death
15 message for the Johnsons?

16 A. I don't recall but I do remember -- and credit to
17 DS Dursley in terms of his persistence roundabout this,
18 this issue.

19 Q. But you don't remember any involvement at all?

20 A. No, and again I may have been -- I may have been in the
21 room, but again with the responsibilities that I had
22 then been given and the kind of time pressures about the
23 next meeting that I may have -- I may have been there
24 but not tuned into it.

25 Q. So if any evidence we have heard from what witnesses

Transcript of the Sheku Bayoh Inquiry

1 recollect you being involved in any way with these death
2 messages, would that be incorrect?

3 A. As I say, I may have been present. I didn't pore over
4 the words or review the words or contribute to the words
5 given, no.

6 Q. Thank you. I would like to ask you now about some of
7 the briefings that you gave to Pat Campbell. Can I ask
8 you to look at paragraphs 188 to 189. This is
9 information that was given to Pat Campbell and you were
10 asked and referred to a statement, PIRC statement by
11 Detective Superintendent Campbell which stated:

12 "I have been informed that within these notes
13 DSI Harrower [that's someone from PIRC] has recorded
14 having a conversation with myself at 1022 hours and that
15 I said 'male ran towards officer with a knife'.
16 I recall stating that to DSI Harrower. Colin Robson was
17 the on call detective inspector that day and he provided
18 me with numerous updates. It was Colin Robson who
19 mentioned during one of the updates that Sheku Bayoh had
20 ran towards the officers with a knife."

21 And that again is in quotation. So that's
22 a quotation from Pat Campbell's statement, a PIRC
23 statement, and your reply at 189 is:

24 "I don't recall specifics but it's quite plausible
25 that from the information I had was that he had ran

Transcript of the Sheku Bayoh Inquiry

1 towards officers with a knife. When I talked about
2 engaged a male, if I said ran towards officers with
3 a knife that's because I have been told it or my
4 understanding from what I picked up. That's entirely
5 plausible. I don't recall saying it though."

6 You may not recall that conversation with
7 Pat Campbell, but I think you have already said today
8 that you did provide him with numerous updates that
9 morning?

10 A. Verbally, yes.

11 Q. And you seem to be saying here that it is plausible, so
12 you could have said that. I'm interested in where you
13 would have got the information that Sheku Bayoh had ran
14 towards the officers with a knife?

15 A. Never told directly that by anybody, if I recall, so
16 again maybe by -- probably around about that, 7.46 was
17 the first phone call in terms of 45 minutes into the
18 incident that I have relayed the circumstances of the
19 numerous calls of the male with the knife but then the
20 kind of leap of faith or assumption that that's what's
21 happened and they have engaged. Again without the
22 versions from the officers, I couldn't say.

23 Q. Can I ask you to look at PIRC 223 please, page 4,
24 paragraph 3, or paragraph 2. Page 4 anyway.

25 Paragraph 3:

Transcript of the Sheku Bayoh Inquiry

1 "I presumed that the man ..."

2 Just so everyone is aware, this is your PIRC
3 statement from 2 June 2015. We have looked at this
4 before. Paragraph 3 says:

5 "I presumed that the man had been disarmed of the
6 knife during the confrontation with the officers.
7 However, I had not received confirmation of that from
8 anyone at that stage."

9 You have said that's a presumption on your part.
10 What made you give rise -- what gave rise to that
11 presumption?

12 A. It's only an assumption if that's accurate in terms of
13 what I have told the Detective Super. I appreciate it
14 was a verbal update over the phone, trying to articulate
15 the events from 7 o'clock that morning until had
16 I phoned them at quarter to 8 with no written statement
17 or no -- having not really had great time to speak to
18 any -- I hadn't spoke to officers and brief contact with
19 the supervisors that were there.

20 Q. Can we look in the same statement, at page 5,
21 paragraph 2. You then go on to say:

22 "As I'm taking observations, I had met with
23 DS Davidson and she began to give me a briefing of what
24 had occurred."

25 So this paragraph relates to Hayfield Road:

Transcript of the Sheku Bayoh Inquiry

1 "She told me that when the cops arrived at the locus
2 the man came from the area of the bus stop, which
3 I could see was located about 50-75 yards away on the
4 north footpath on Hayfield Road. She said he
5 immediately engaged with the cops and was in possession
6 of a knife, then there was an altercation with him
7 during which Constable Nicole Short was assaulted. She
8 did not provide detail on the nature of the assault.
9 She also stated that the man was relieved of the knife,
10 however, I didn't ask for clarity on how that happened.
11 She confirmed that he was thereafter restrained by the
12 officers."

13 So we see in that paragraph that you're noting --
14 this is from June 2015 -- that it would appear that
15 DS Davidson has told you that the man immediately
16 engaged with the cops and was in possession of a knife.
17 Would you remember if that was the information you were
18 given by DS Davidson?

19 A. I don't know but given that kind of brief for the
20 Detective Super would suggest the inference had been
21 provided by someone. I wouldn't speculate when
22 providing an update, appreciating, like heavily
23 caveating that when I'm giving that initial brief these
24 details are still to be confirmed. It's purpose to give
25 him not an evidential update, just to set the scene for

Transcript of the Sheku Bayoh Inquiry

1 him to understand what we're dealing with, appreciating
2 that specifics of this would -- with the intention that
3 it would be established by the investigation.

4 Q. We have heard evidence that DS Davidson wasn't present
5 when the officers first engaged with Mr Bayoh, but do
6 you remember if this was the information she was giving
7 you at the time?

8 A. I don't recall and obviously the recency of the
9 statement would support that.

10 Q. And where it says here:

11 "She also stated that the man was relieved of the
12 knife. However, I didn't ask for clarity of how that
13 happened."

14 Do you remember being told that by DS Davidson?

15 A. I don't and obviously for DS Davidson to be told that,
16 I don't know what hand she was getting that and how she
17 was told of that and informed.

18 Q. But if this statement is correct, or more accurate
19 certainly closer to the events, does it appear that at
20 that stage you had made this assumption that Mr Bayoh
21 had a knife at the time and was relieved of that during
22 the course of his contact with the police?

23 A. That was my understanding there and obviously the
24 information passed to the Detective Super which has then
25 been notified, part of that was about certainly that

Transcript of the Sheku Bayoh Inquiry

1 inference of Mr Bayoh having the knife and making
2 advances towards officers on their arrival, yes.

3 Q. And was that the information that you then went on to
4 share when you returned to Kirkcaldy Police Office with
5 other more senior officers?

6 A. In general terms, yes.

7 Q. And in the absence of any accounts from the officers did
8 you continue to have that understanding which was based
9 on briefings from other officers?

10 A. Yes, and every time that I would inform someone, as
11 I say, there would be that caveat of we don't have
12 a statement, we don't know the general understanding
13 from the information from the scene is this.

14 Q. So that information would be perpetuated and shared?

15 A. Yes.

16 Q. Can I ask you about one other thing. Can we go back to
17 the spreadsheet, page 8. I just want to ask you if you
18 remember an Airwaves transmission. This was an Airwaves
19 transmission at 7:26:52, just above halfway down page 8.
20 It's by Acting Police Sergeant Scott Maxwell. It's:
21 "Just for the log the initial on attendance this
22 male has attacked PC Short quite violently. As a result
23 he was sprayed with CS and PAVA and batoned. There may
24 be a suggestion that he has been batoned to the head
25 area."

Transcript of the Sheku Bayoh Inquiry

- 1 Was that something that you remember hearing,
2 listening to on the day?
- 3 A. No. I don't recall, but I was aware that obviously
4 officer safety equipment had been used in the restraint
5 and arrest.
- 6 Q. I'm trying to work out whether your understanding of the
7 events and how things had panned out would be more based
8 on briefings you had received from other officers, such
9 as DS Davidson, or whether it would also be coloured by
10 the content of the Airwaves messages that you had heard
11 or listened to?
- 12 A. I think in fairness, and as I said yesterday, following
13 my initial attendance, even when I got out of the car,
14 I'm unsure if I had my Airwaves because being on scene I
15 thought I was best-placed -- I have obviously passed
16 messages and then naturally been on the phone, so
17 I think having attended, the messages going back to the
18 control room, I wouldn't be as aware of.
- 19 Q. So much more likely that the information you had came
20 from briefings from other officers?
- 21 A. The discussions at the scene, yes.
- 22 Q. Discussions at the scene.
- 23 A. Yes.
- 24 Q. Regardless of where those -- whether those were
25 first-hand accounts or second-hand accounts?

Transcript of the Sheku Bayoh Inquiry

1 A. Yes.

2 Q. Thank you. Can I ask you to move on to the first
3 Gold Group meeting please. We have touched on this
4 before. It's 11.30 on 3 May and if we could perhaps
5 look at the minutes of that, PS06491. You will see
6 these are typed up minutes. You have also got your
7 daybook in which you took notes.

8 A. Yes.

9 Q. We have taken you through some of those notes. We see
10 there that you were present at that meeting and it was
11 chaired by ACC Nicholson, and also in attendance were
12 Chief Superintendent McEwan, Detective Chief
13 Superintendent Boal, Detective Superintendent Campbell,
14 Chief Inspector Shepherd and somebody from the media,
15 Kate Finlay.

16 The MIT weren't there?

17 A. Not at that time, no.

18 Q. And the PIRC weren't there. And can I confirm that the
19 daybook notes that you have in relation to this meeting,
20 were they taken contemporaneously when you were in the
21 meeting?

22 A. Yes, yes. As I say, I think because of the numbering
23 that there wasn't very much next to my kind of agenda
24 item at number 2.

25 Q. And then I think as you say, and as you have said

Transcript of the Sheku Bayoh Inquiry

1 earlier, if we go down to agenda item number 2 do we see
2 that the factual update was given by you, Detective
3 Inspector Robson.

4 A. Yes.

5 Q. And that minutes what you have been doing --

6 A. Yes.

7 Q. -- up until that point in time. Can I ask you to look
8 at your second Inquiry statement please, 212,
9 paragraph 212. I think you have been asked in your
10 Inquiry statement about this first Gold Group meeting
11 and the paragraphs relating to this go from 212 to 216
12 but looking just at 212 for the moment:

13 "There was no suggestion of criminality so the
14 response officers were part of the overall investigative
15 strategy and that's why I've noted them as that in my
16 book."

17 Is that your daybook?

18 A. Yes.

19 Q. I would like to ask you about that. We have heard
20 evidence from others that says when you're investigating
21 an unexplained death it's important to keep an open
22 mind, there could be various hypotheses or explanations
23 why that person has died, there could be criminal
24 reasons, or there could be medical reasons, or
25 something. Would you agree with that?

Transcript of the Sheku Bayoh Inquiry

- 1 A. That's correct.
- 2 Q. And for the SIO it's important to consider all of those
3 possible options, yes? Can you explain, without having
4 any accounts from the attending officers, how it was
5 that you could say there was no suggestion of
6 criminality on the part of the response officers?
- 7 A. There was no information, so I think even that part of
8 that paragraph should be the overall investigative
9 strategy, specifically witness strategy, because at that
10 time we had classed them as witnesses because there was
11 no other inference -- information to suggest any
12 wrongdoing, any kind of active part on the officers that
13 had led to the death of Mr Bayoh.
- 14 Q. Where could that type of information have come from if
15 it had existed?
- 16 A. From the witnesses at the scene, so again that would
17 have been captured as part of the house-to-house, from
18 independent witnesses, separate from the police
19 response.
- 20 Q. If information -- although there was no suggestion of
21 criminality at that time, during this first Gold Group
22 meeting, if information had come to light subsequently,
23 from a witness statement for example, would that have
24 automatically triggered a change in status for the
25 officers?

Transcript of the Sheku Bayoh Inquiry

- 1 A. Yes, like any other investigation: a witness until we
2 have information to suggest otherwise.
- 3 Q. Then, if that information comes to light and the status
4 of the officers changes to suspect, we have heard that
5 other procedures are triggered at that point?
- 6 A. Yes.
- 7 Q. But as part of the investigation that can progress and
8 things can change over the course of time?
- 9 A. Yes.
- 10 Q. Can I ask you how that might relate to requesting
11 statements from officers because it may be the case that
12 if you have a witness and you are interviewing that
13 witness in person, face-to-face, if they say something
14 incriminating you can immediately say, "These procedures
15 will have to change because your status may now change
16 to suspect".
- 17 What's the position with police officers where they
18 are being asked to write effectively operational
19 statements, or to give accounts, maybe in writing, they
20 would simply be writing the whole thing out, there's
21 nobody there to stop them and say, "Hang on, there's new
22 procedures we have to adopt". Can you tell us how
23 that's taken account of when you're dealing with taking
24 accounts from officers?
- 25 A. Again, on a daily basis we're asking officers for

Transcript of the Sheku Bayoh Inquiry

1 statements. I suppose if we're -- if we have the
2 confidence that they're in a position to provide their
3 own, there is no suggestion that we suspect them of
4 committing any crime or offence, if they were to
5 chose -- and we don't then monitor -- if they're to
6 provide their own. I suppose on review if there was
7 something that casts suspicion or introduced something
8 that -- then we would have to review that. I suppose it
9 would be on the part of the officer having, from the
10 outset, us clarifying and confirming that they're
11 a witness; it would be their choice if they were to
12 incriminate themselves as part of anything that they
13 were involved in.

14 Q. And if officers did incriminate themselves within
15 a statement such as an operational statement, that could
16 be used as evidence against them?

17 A. On a case-by-case basis it would be assessed, yes.

18 Q. Can we go back to the minutes please which we looked at
19 a moment ago, so the minutes for the first Gold Group
20 meeting, PS06491 and I would like to look at agenda item
21 number 3. You will see that this is the investigative
22 process item, it's led by DCS Boal and Detective
23 Superintendent Campbell and you will see as we move down
24 the bullet points there, there's one that reads:

25 "CT considerations -- raised by ACC and to be

Transcript of the Sheku Bayoh Inquiry

1 reviewed by NIB."

2 What are CT considerations?

3 A. Counter-terrorism.

4 Q. And raised by the ACC, is that ACC Nicholson?

5 A. It will be, yes.

6 Q. And what's the NIB?

7 A. National Intelligence Bureau, so more the national
8 function I described about the divisional intelligence
9 offices, this is the national function.

10 Q. And was there anything at this stage -- so this is the
11 11.30 Gold Group meeting -- that would explain why
12 counter-terrorism is being mentioned at this meeting?

13 A. No, I think as you say at the outset of any
14 investigation we keep an open mind in terms of motives
15 or how incidents have occurred. I think to consider
16 everything is the right thing to do, and part of the CT
17 consideration, I think, from the ACC's perspective at
18 that time was some form of kind of correlation to other
19 events in the UK at that time and the potential threat
20 level.

21 MS GRAHAME: I will come back to that. I'm conscious of the
22 time for the --

23 LORD BRACADALE: We will take a 15-minute break.

24 (3.01 pm)

25 (Short Break)

Transcript of the Sheku Bayoh Inquiry

1 (3.19 pm)

2 LORD BRACADALE: Yes, Ms Grahame.

3 MS GRAHAME: Thank you.

4 We were talking about counter-terrorism and you
5 said:

6 "... from the ACC's perspective at that time there
7 was some form of kind of correlation to other events in
8 the UK ... and the potential threat level."

9 What was said at that meeting about the connection
10 between these events and counter-terrorism, or possible
11 counter-terrorism?

12 A. So that was the first of it being introduced in terms of
13 that term. I had not heard the reference, or made
14 a reference, or had any thought around this being CT,
15 counter-terrorism, related. I think naturally it's the
16 kind of strategic oversight that the assistant chief
17 constable would have had, it was something -- again, him
18 having the broader kind of organisational landscape,
19 whether that's something that was his area of business,
20 something he had been briefed on previously because he
21 would be privy to these briefs in terms of the threat
22 picture in the UK, that naturally he introduced it as
23 a consideration, if this had played a part in the
24 incident.

25 Q. So the person to speak to about that would be

Transcript of the Sheku Bayoh Inquiry

- 1 ACC Nicholson, to see what his thought processes would
2 be?
- 3 A. Yes, I would imagine, but as he introduced it, it wasn't
4 something that -- it was a consideration and he wanted
5 it explored as part of it. So he introduced it as
6 a consideration and I imagine an associated action to
7 explore that.
- 8 Q. Did he explain any specific reasons why he thought it
9 should be explored in these circumstances?
- 10 A. I don't recall. I just -- the overriding factor of
11 considering is the investigation needed.
- 12 Q. Was the race of Mr Bayoh mentioned as being
13 a consideration?
- 14 A. The race of Mr Bayoh was mentioned because that was the
15 factual update not -- I don't think I recall correlating
16 the race with the CT element.
- 17 Q. Did Nicholson correlate his race with the CT element?
- 18 A. I'm not too sure.
- 19 Q. Was anything said by Nicholson making any connection or
20 drawing an inference or such-like from the race of
21 Mr Bayoh and counter-terrorism?
- 22 A. Not as bluntly to say, "The male involved is black so is
23 this CT related?" Not that direct correlation.
24 I imagine he would have given some context around it,
25 but I can't recall the kind of reasons, but it's not --

Transcript of the Sheku Bayoh Inquiry

- 1 we do consider every eventuality, so I suppose he was
2 right to highlight as we progressed for this to be
3 a consideration.
- 4 Q. Did he mention as part of this agenda item on
5 counter-terrorism the fact that Mr Bayoh was black or
6 mention his race, even tangentially?
- 7 A. So from the outset as a factual update it was obviously
8 introduced, confirmed that Mr Bayoh was black. I don't
9 think he reiterated the fact when it came down to the CT
10 consideration, "Are we only considering this because he
11 was black?" I don't recall that.
- 12 Q. So the fact he was black was mentioned at the
13 beginning --
- 14 A. From the outset, as part of my update.
- 15 Q. -- of the meeting by you?
- 16 A. Yes.
- 17 Q. Not repeated by Nicholson in relation to the item that
18 covered CT?
- 19 A. Not that I recall.
- 20 Q. From your perspective was there anything that you were
21 aware of about the particular circumstances of this
22 incident that would have given you cause to consider
23 counter-terrorism?
- 24 A. No.
- 25 Q. Did you consider terrorism?

Transcript of the Sheku Bayoh Inquiry

- 1 A. Probably not until it was mentioned as a consideration.
2 But again, we don't -- I think that's the rule of thumb
3 that we don't discount anything, especially in the early
4 stages, until we get information to make that assessment
5 of the principles of any crime and incident.
- 6 Q. Thinking back now, what was the first time that day that
7 anyone mentioned terrorism or a possible link to
8 terrorism to you?
- 9 A. With obviously having today and yesterday explaining
10 what I was involved in, that was the first of me being
11 aware of it being introduced.
- 12 Q. And you have talked about you have to think about every
13 eventuality. Was there anything about the circumstances
14 that even gave rise in your mind to terrorism as being
15 one of the eventualities?
- 16 A. No, but the primary focus was establishing a potential
17 motive as to the incident.
- 18 Q. Can I ask you to look at your Inquiry statement again
19 please, the second one, 221 and 222, primarily 222, but
20 look please first of all at 221 just so you can see --
21 you have obviously watched some of the first sessions in
22 the Public Inquiry and you recognise that officers were
23 asked about the type of incident that you were dealing
24 with and there was mention in the first hearing about
25 the Gold Group meetings:

Transcript of the Sheku Bayoh Inquiry

1 "At that time a number of reported incidents classed
2 as counter-terrorism had occurred in the UK and were
3 well publicised. We didn't know what we had here. It
4 would be wrong to dismiss terrorism. The ACC has raised
5 it and that element should be reviewed by our National
6 Intelligence Bureau. For any incident we would always
7 look for intelligence function to see if there's any
8 links to help build that intelligence picture. The NIB
9 is a national function with links to other police forces
10 and national databases to share information."

11 Where it says here:

12 "For any incident we would always look for
13 intelligence function to see if there's any links to
14 help build that intelligence picture."

15 Is this for any incident you would look for
16 intelligence function with regard to terrorism?

17 A. No.

18 Q. Or connections to do with terrorism?

19 A. Any incident we are -- any crime/offence that we're
20 investigating, we will always look to build that
21 intelligence picture and I think that's been referred to
22 in asking for intelligence profiles and we have
23 a function that does that in terms of intelligence
24 officers.

25 Q. So it's not a specific reference to counter-terrorism

Transcript of the Sheku Bayoh Inquiry

- 1 intelligence?
- 2 A. No, not at all.
- 3 Q. And you say, "For any incident", do you mean genuinely
4 any incident at all you look for intelligence?
- 5 A. In every matter that the police will deal with, there's
6 an option to look at what information is held on
7 computer, on police systems, to help give you more
8 information, support and information.
- 9 Q. In terms of incidents where you look for or consider
10 counter-terrorism, what sort of incidents exist where
11 you would look for counter-terrorism intelligence?
- 12 A. You wouldn't go looking for the specific intelligence.
13 Those checks would maybe give an indication of the types
14 of intelligence that existed, but appreciating that the
15 National Intelligence Bureau has links to the wider UK
16 systems that I wouldn't be -- I don't get access to or
17 be privy to. So I think again it was just part of that
18 intelligence picture holistically that the ACC was
19 looking for it to be considered as part of.
- 20 Q. So you have talked about your actions, which were to
21 recover intelligence generally, we have seen your action
22 book, Colette Bell, Sheku Bayoh, and you have said the
23 witnesses, you would look for that. Was there a change
24 after the first Gold Group meeting where the ACC,
25 ACC Nicholson, mentioned counter-terrorism; did things

Transcript of the Sheku Bayoh Inquiry

1 then change after that first Gold Group meeting?

2 A. Not really. He was just bringing out specific links
3 that he wanted explored or considered. As part of the
4 intelligence profiles that I had requested on police
5 systems that are searched that may have given some form
6 of marker or indication that that was CT-related,
7 I don't know, but until we embark on those searches we
8 don't know what information is held within police and
9 partner agencies.

10 Q. So during that first Gold Group meeting when
11 ACC Nicholson raised counter-terrorism, who was tasked
12 at that point with pursuing that issue?

13 A. I think it would be a task to our National Intelligence
14 Bureau, so there would be some form of conduit for that
15 and allocated -- whether it was allocated to our
16 divisional intelligence to liaise with the national
17 function.

18 Q. Who would be responsible for making that contact with
19 the National Intelligence Bureau?

20 A. I don't know because I was unsure of what resource that
21 Detective Superintendent Campbell was provided in
22 support of the PIRC investigation. It would be
23 potentially -- and part of developing that intelligence
24 cell, there might have been somebody brought in for
25 that, I'm unsure.

Transcript of the Sheku Bayoh Inquiry

1 Q. Now, we know that the counter-terrorism element came
2 under agenda item 3, which was led by Detective
3 Superintendent Campbell, would he be the best person for
4 us to ask about this -- pursuing this line, the
5 counter-terrorism line?

6 A. Most likely because the actions that I have recorded
7 pretty much bring everything up to before the
8 Gold Group, it was everything prior to that Gold Group
9 and then the handover to PIRC and I think you will see
10 some writing on my action book that refers to other
11 actions, so the action book of the MIT perhaps, or the
12 action book of PIRC.

13 Q. Feel free to look at your action book --

14 A. I just know in some of the margins, especially in the
15 kind of document summary in the action book there is
16 writing that's not mine and it has got next to it "A6,
17 A7". That means that another action book will exist, no
18 doubt, that in terms of time and date stamp will pick up
19 where I have left off.

20 Q. Is there any entry or action within your action book
21 that relates to counter-terrorism?

22 A. No.

23 Q. And did you personally pursue any line of investigation
24 or a strand which related to counter-terrorism?

25 A. No.

Transcript of the Sheku Bayoh Inquiry

1 Q. And was that any part of your consideration of the
2 investigation into the death of Mr Bayoh?

3 A. Not of my actions or considerations, no, apart from
4 keeping an open mind to any eventuality.

5 Q. Can I ask you to look at 222 now. It should be just on
6 the screen:

7 "It is integral to any incident and the basic
8 principles of any investigation to try and establish
9 a motive. By no means did I immediately think this was
10 a terror incident. Nor did I think there was any racial
11 element to it or have any information that supported
12 this. I saw it as a call to police where somebody was
13 in a public place with a knife, police attend in
14 response, they are engaged by the male, and have used
15 physical restraint to gain control of him. I can see
16 why if it was terror related like had to be considered
17 and explored. In the early stages of any investigation
18 you are in the information gathering phase until you are
19 comfortable you know what we're dealing with. This then
20 allows for motives including terror to be discounted but
21 it would be remiss to rule anything out from the start
22 until this."

23 So I think you have already said you weren't ruling
24 out terrorism, but that wasn't a specific part of
25 your --

Transcript of the Sheku Bayoh Inquiry

1 A. Never at the forefront of my mind in terms of that early
2 actions.

3 Q. In line 3 here you say:

4 "Nor did I think there was any racial element to it
5 or have any information that supported this."

6 What sort of information would you have been looking
7 for if you had been looking for something that supported
8 a racial element?

9 A. I'm unsure obviously in terms of the line of questioning
10 from the Inquiry. I don't know if that sentence then
11 changed from -- well, the motive of why Mr Bayoh was
12 in -- obviously on Hayfield Road and the calls that were
13 received, the intention behind that, and then moving on
14 to potentially the -- did I mean about the role of
15 the -- the actions of the police. I'm unsure. I think
16 I change topics effectively, I think. And I think that
17 goes back to was there evidence of any kind of racial
18 motive on the part of the police perhaps.

19 Q. Well, let's just read the first -- the beginning of that
20 then:

21 "It is integral to any incident and the basic
22 principles of any investigation to try and establish
23 a motive. By no means did I immediately think this was
24 a terror incident. Nor did I think there was any racial
25 element to it or have any information that supported

Transcript of the Sheku Bayoh Inquiry

1 this."

2 So when you put that into context do you understand
3 what you mean when you say, "Nor did I think there was
4 any racial element ..."? Are you thinking about
5 a racial element on the part of the officers?

6 A. Yeah, I think I'm going between the two in terms of
7 there's nothing suggesting in terms of the actions of
8 Mr Bayoh were terror-related. Likewise there was
9 nothing in the actions of the police that I saw were
10 race-related, I think I'm trying to capture there,
11 probably not knowing the question that had come from the
12 Inquiry team.

13 Q. Just to be clear, this isn't a series of questions that
14 are provided to you by the Inquiry team, this is
15 a conversation or a discussion that --

16 A. That takes the form of a question and answer.

17 Q. So they will ask you questions and you are given freedom
18 to reply. But it's not as if they come to you with
19 a series of 21 questions, or 222 questions and ask you
20 each?

21 A. There was a lot of questions, but no.

22 Q. That's fine. So can I ask you again, what would you
23 have been looking for? As an SIO investigating a sudden
24 death what elements or what evidence would you be
25 looking for if you were wishing to consider whether

Transcript of the Sheku Bayoh Inquiry

- 1 there was a racial element or a racial motivation?
- 2 A. Perhaps a direct allegation from an independent witness,
3 some information from a source that indicated the
4 actions of the police or anybody were racially
5 motivated.
- 6 Q. And that would have come from civilian witnesses
7 possibly?
- 8 A. And also within potentially allegations from colleagues
9 of officers that may have, in their eyes, acted
10 inappropriately or unlawfully.
- 11 Q. And if that information had been available, you would
12 have started considering a racial element?
- 13 A. Definitely.
- 14 Q. Were you aware of concerns generally in the UK about
15 black men having passed away after contact with
16 police officers and maybe scenarios -- situations down
17 in England, for example?
- 18 A. Not specifically UK, the wider world, yes.
- 19 Q. America perhaps?
- 20 A. (Nods).
- 21 Q. Was that something that you had in your mind on 3 May,
22 that there may be a racial element?
- 23 A. Not until the link was made in the media effectively,
24 no.
- 25 Q. When was the link made in the media?

Transcript of the Sheku Bayoh Inquiry

- 1 A. I can't recall.
- 2 Q. We have seen an entry in DS Dursley's daybook which
3 refers to Zahid Saeed and the word "racist" appears in
4 his handwriting. Was there anything that you were aware
5 of in relation to contact with Zahid Saeed on 3 May that
6 gave rise to any concerns about racism, or racial
7 discrimination being part of the events?
- 8 A. No, I think that only I was aware of that potentially
9 when -- following DC Mitchell and Parker's contact with
10 the family perhaps.
- 11 Q. So when you talk about the family, are you talking about
12 the Johnsons?
- 13 A. Yes.
- 14 Q. Kadi and Ade Johnson.
- 15 So after DC Mitchell and DC Parker had delivered
16 death messages to the Johnsons, were you aware that the
17 issue of potential racism had been raised by them?
- 18 A. Yes, whether it was directly from the officers or
19 indirectly from other colleagues.
- 20 Q. So it could have come through DS Dursley or it could
21 have come direct from contact with Mitchell and Parker?
- 22 A. Yes.
- 23 Q. What time was that, do you remember?
- 24 A. I can't recall. Definitely at a point that I was no
25 longer involved in the kind of active investigation and

Transcript of the Sheku Bayoh Inquiry

1 at a time, obviously, that they had been to see the
2 family, so late afternoon into the early evening.

3 Q. So what impact did that have on you, that issue having
4 been raised?

5 A. I suppose as a -- not so much as a police officer, but
6 as a person, human being, the fact that if that was the
7 thoughts of a family against -- as I say, it wasn't
8 directly aimed at me but as the organisation, it does
9 have an impact in terms of how our actions, and
10 I suppose selfishly me my actions would be perceived in
11 the kind of aftermath of it, so it definitely -- it
12 definitely hit home in terms of the kind of gravity of
13 what we were dealing with.

14 Q. And that was your feelings as a person, or your personal
15 views?

16 A. (Nods).

17 Q. What impact did that have in relation to your status as
18 a police officer, as an inspector in the Police Service,
19 one who has had long service?

20 A. It's -- appreciating that this has just come following
21 contact with the family that they have been told
22 circumstances in terms of their loved one dying,
23 I appreciate emotions run high, things are said in the
24 heat of the moment, so I probably didn't think too much
25 of it at that time.

Transcript of the Sheku Bayoh Inquiry

- 1 Q. Why?
- 2 A. I had a lot to be getting on with. We were still in the
3 midst of the investigation and having the role to play.
4 It was -- yes, you can't take things too personally
5 because again, is it aimed at the organisation, is it
6 something that an organisation that I'm kind of
7 passionate about -- but yes, as I say, it was a bit of
8 a kind of reality of what was being suggested but
9 appreciating that -- what I might hope, that what the
10 fullness of an investigation would confirm or negate.
- 11 Q. You would -- did you just say you hoped it would confirm
12 or negate?
- 13 A. No, it wasn't that I felt the right to respond and
14 become defensive, especially if we're talking about it
15 goes against keeping that open mind, but the hope that
16 the fullness of an investigation would give the answers
17 and conclusions of any suggestion in terms of motive,
18 motive or actions of the police.
- 19 Q. Were you hoping that it would negate that suggestion and
20 the officers would be absolved of any suggestion of
21 racism?
- 22 A. You always do but if there were circumstances that
23 suggested otherwise that's not for me to defend.
- 24 Q. In relation to your role at that time, you have told us
25 about finding out after the issue was raised by the

Transcript of the Sheku Bayoh Inquiry

1 Johnsons. Initially you were the SIO, you have talked
2 about PIRC coming in roughly about 2ish in the
3 afternoon, you have talked about Detective
4 Superintendent Campbell being a more senior SIO to you.
5 In the afternoon, once you were aware of this suggestion
6 of possible racism, what impact did that have, if any,
7 on your work and the role you were taking at that stage,
8 so this would be by the mid-to late afternoon?

9 A. It didn't have any impact on my role because I was no
10 longer the decision-maker. Any actions and decisions
11 had already occurred. As I say, at that time the
12 function was more the administrative management of
13 recording our actions, arranging briefing notes in terms
14 of pretty much trying to summarise the events up until
15 my involvement ceased effectively.

16 Q. Can I ask you about a meeting that you had, an initial
17 meeting with PIRC at 10 past 2 in the afternoon.
18 I think you will see reference to this at 227. You will
19 see it is about a meeting with PIRC:

20 "I think I had a meeting with PIRC at 14:10 and this
21 was part of the second Gold Group meeting. I had to do
22 a bit of scene-setting to PIRC on what was already said
23 beforehand."

24 Was this your first contact with PIRC that day?

25 A. Yes.

Transcript of the Sheku Bayoh Inquiry

1 Q. And you said it was part of the second Gold Group
2 meeting. If we have minutes of that second Gold Group
3 meeting at 14.40, was that just shortly prior to the
4 start of that meeting?

5 A. Yes, I think there was potentially a delay in the fact
6 of that meeting kicking off due to just other ongoing
7 matters.

8 Q. Then I think there might be reference to this in your
9 daybook on page 4. So if we just very briefly go back
10 to that, page 4, and in the middle of that page it
11 should say, "14.10 -- Meeting with PIRC", is that
12 correct?

13 A. Mm-hm.

14 Q. "Keith Harrower -- Deputy Investigator".

15 And then as we go down that page we can see a number
16 of topics or strategies that are noted there. There are
17 asterisks against, "[Next of kin] -- FLO". Tell us
18 about that, why it's asterisked?

19 A. I don't know but again it's in the same vein as the
20 first Gold Group, that I think there was an intent
21 for -- yes, it was their intent that the first contact
22 with the family, next of kin, would be the family
23 liaison officer.

24 Q. Right. And then underneath it says "CCTV in van not
25 recording", so by that stage, that line, you realised

Transcript of the Sheku Bayoh Inquiry

1 there was no recording?

2 A. Yes.

3 Q. Then it says "Independent witnesses", does that say "MIT

4 progress"?

5 A. Yes, "MIT progress" I have written.

6 Q. MIT progress. And then underneath it says "Status --

7 witnesses", what's that a reference to?

8 A. I think that must be the officers.

9 Q. And was it your understanding at 10 past 2 that their

10 status remained that of witnesses?

11 A. Yes, and I think my notes are not as extensive there

12 because at the second Gold Group meeting there was

13 a detective sergeant that was doing that on my behalf.

14 Q. Who was that?

15 A. Paula Wander(?) I think.

16 Q. So was this information that was given to you by PIRC at

17 that time?

18 A. I think that was part of the meeting. I think like --

19 whereas before I have numbered it which is then

20 transposed onto the minutes, this was probably just the

21 pertinent -- my notes of the pertinent points from the

22 meeting and not exhaustive.

23 Q. So that's the meeting that you had with PIRC at 10 past

24 2, information they were giving you was that the

25 police officers were witnesses?

Transcript of the Sheku Bayoh Inquiry

1 A. Yes, but the meeting I had with PIRC informed -- it was
2 the Gold Group effectively. I didn't have a side
3 meeting. I think that maybe the time that I have put
4 down and then there was a delay in the Gold Group
5 meeting start.

6 Q. So the meeting you had with PIRC --

7 A. Was part of the wider Gold -- there wasn't a -- there
8 might have been discussions in terms of an introduction,
9 but when I went into that, reiterated the factual -- or
10 the update from the first Gold Group meeting and
11 reiterated it at the second, supplementing anything new,
12 was being within the environment of the second
13 Gold Group meeting.

14 Q. So was everybody who was at the Gold Group meeting in
15 the room at that time?

16 A. In the -- if you've got the minutes from the second
17 Gold Group meeting your list of attendees would be
18 there.

19 Q. And that was effectively a discussion in front of
20 everyone about the status of officers being witness?

21 A. Yes. I don't think -- it may look that the 14.10 to
22 14.30 was a 20-minute meeting with PIRC with just me,
23 I don't think that was the case. It was a short
24 introduction and then the formal process of the
25 Gold Group meeting to ensure that -- and capture the

Transcript of the Sheku Bayoh Inquiry

- 1 discussion and what was being discussed.
- 2 Q. Right.
- 3 Let's look at the minutes of the second Gold Group
4 meeting then, PS07268. We see there this is the meeting
5 listed as taking place at 1440 and those present
6 included ACC Nicholson, who remained Chair of the
7 meeting and attended by McEwan, Boal, Campbell,
8 Detective Chief Inspector Houston, Shepherd, yourself,
9 Kate from the media and then Keith Harrower from PIRC
10 and Keith Hardie from MIT and someone called
11 John Ferguson. Was John Ferguson also from PIRC, or was
12 he --
- 13 A. It's not a name I'm familiar with and I don't know if
14 it's potentially PIRC he was from.
- 15 Q. All right. So this is the first meeting where we see
16 the presence of PIRC and MIT?
- 17 A. The first formal meeting, yes.
- 18 Q. Had there been previous meetings that you know of?
- 19 A. I just more refer to the discussions that maybe
20 Detective Superintendent Campbell had with PIRC.
- 21 Q. There may have been contact with them --
- 22 A. Yes.
- 23 Q. -- prior to this but this was the first meeting they
24 attended?
- 25 A. That's correct.

Transcript of the Sheku Bayoh Inquiry

1 Q. And we see at item 2, if we go down the page, that
2 there's a factual update:

3 "Full circumstances of incident relayed to
4 Gold Group by DI Robson ..."

5 And this time you have included:

6 "... details of [the] call cards, verbal account by
7 Duty Sergeant Scott Maxwell and actions completed in
8 respect of locus, deceased, officers concerned, and
9 significant witnesses."

10 Can you tell me what it means, "Verbal account by
11 Duty Sergeant Scott Maxwell", please?

12 A. I think that's -- he wasn't there, I think it was --
13 again, that's been noted by somebody else. It was me
14 giving -- I think we discussed what I was told at the
15 scene when I have interacted with DS Davidson and
16 Sergeant Maxwell.

17 Q. So again the update at this stage comes from you?

18 A. Yes.

19 Q. And it's based on information you were given by
20 Sergeant Maxwell and possibly DS Davidson at the scene?

21 A. Yes.

22 Q. And we looked at that earlier, before the break?

23 A. And my observations as well.

24 Q. But in relation to the events involving Mr Bayoh, you
25 weren't present when they were going on?

Transcript of the Sheku Bayoh Inquiry

1 A. No.

2 Q. So your information came second-hand from other
3 officers?

4 A. That's correct.

5 Q. Thank you. I would like to ask you about Zahid Saeed
6 please. Could we look at paragraph 268 of your Inquiry
7 statement now. Here you explain that:

8 "Between Gold Groups between 14:40 and 20:15, I took
9 the Crime Scene Manager out from PIRC and showed him the
10 locus. It was over to him, effectively. It was handed
11 over to PIRC by that stage. There was a police presence
12 there for days and weeks after."

13 So you have told us about the Gold Group meeting at
14 1440. There was another one scheduled for quarter past
15 8 that evening and between that period you took the
16 Crime Scene Manager from PIRC to the locus. Was that
17 the point where effectively the handover was complete
18 from you of your role as SIO to PIRC?

19 A. I think obviously the role of SIO had been handed over
20 in the first Gold Group meeting to Detective
21 Superintendent Campbell. That was more just to help him
22 set the scene in terms of the PIRC Crime Scene Manager
23 who had been allocated. It was more just to take him up
24 and make him aware of the surroundings and again just
25 relay the information I had to hand at that time.

Transcript of the Sheku Bayoh Inquiry

- 1 Q. So after you handed over the formal SIO role to
2 Detective Superintendent Campbell at the first PIRC
3 meeting and up until this point where PIRC have taken
4 over responsibility, what was your role between the
5 first Gold Group meeting and the second Gold Group
6 meeting when PIRC arrived?
- 7 A. The first Gold Group meeting was doing the minutes or
8 summary of that meeting, again help inform the updates
9 and briefing for PIRC and other senior management and
10 I started the action book as well with that first entry,
11 if you recall, at 2 o'clock in terms of the call cards.
- 12 Q. And so was that more of an administrative role at that
13 stage?
- 14 A. With the exception of going out with the Crime Scene
15 Manager for PIRC, it was -- my role throughout the rest
16 of that day before I terminated duty was purely
17 administrative.
- 18 Q. And then administrative plus the visit to the locus with
19 PIRC?
- 20 A. Yes.
- 21 Q. And then what time did your responsibilities come to
22 an end? What time did you end your duty that day?
- 23 A. Around about midnight I think.
- 24 Q. So until midnight did your duties remain administrative?
- 25 A. Yes.

Transcript of the Sheku Bayoh Inquiry

1 Q. Did you also continue to be involved with other -- you
2 have told us that you were duty SIO for the Fife
3 division that day. Did your other duties continue
4 throughout the day or did you focus mainly on this
5 investigation with Mr Bayoh?

6 A. Basically because this incident had consumed us, there
7 was provisions put in place for another SIO separately.
8 Again, I think I had explained yesterday about policing
9 needed to continue in terms of both from a uniformed
10 perspective and from crime management, SIO oversight, so
11 I don't recall what was put in place but there would
12 have been a provision of staff to cover day business for
13 other ongoing matters.

14 Q. When did that happen?

15 A. More or less early afternoon. I don't recall who it
16 was. I think there was phone calls made to existing
17 SIOs if they could effectively go onto duty and perform
18 that function, but I didn't get involved in any other
19 business from the outset effectively. If there was
20 ongoing matters elsewhere, they were dealt with by
21 others -- other staff.

22 Q. You will see that in this part of the statement you come
23 on to be asked questions about Zahid Saeed and I would
24 like to look first at paragraph 273:

25 "I have been referred to my statement ..."

Transcript of the Sheku Bayoh Inquiry

1 This is the PIRC statement:

2 "... I have since been asked to provide an
3 additional statement owing to a data audit that has been
4 carried out by the PIRC which provides that on 3/5/15
5 I accessed ... at 1638 and 1642 hours, same date during
6 which time I have opened ... which listed the details of
7 Mohamed Zahid Saeed."

8 Just to put this into context, as I understand it,
9 PIRC at a later stage came back to you and asked you for
10 the statement which was PIRC 00224. I don't need to go
11 to it at the moment, but I asked you about that
12 yesterday when we started. That was in November 2015,
13 24 November, and they asked you to explain why they
14 had -- they had carried out a data audit and asked you
15 to explain why some searches or information had been
16 gathered in regarding Zahid Saeed. And the second part
17 of that paragraph there says:

18 "Owing to the circumstances and his link to
19 Sheku Bayoh on the day of the incident I can confirm
20 that I accessed police systems in order to ascertain the
21 correct nominal details and spelling of Saeed to enable
22 me to accurately brief senior management and complete
23 various documents including the minutes of an initial
24 Gold Group meeting."

25 So was this part of your administrative duties at

Transcript of the Sheku Bayoh Inquiry

1 that time?

2 A. (Nods).

3 Q. Why did you need to ascertain the correct nominal
4 details and spelling of Zahid Saeed?

5 A. It's probably proven in my daybook in terms of how
6 I have attempted to spell it and it is just to ensure
7 accuracy, so I didn't recall until obviously I was
8 prompted but we obviously have individual log ins for
9 our police systems so it is quite plausible that I will
10 have carried out that search. What would be interesting
11 is other searches around about that time period as well,
12 all were just trying to provide some accuracy of the
13 information.

14 Q. Did you carry out searches in relation to Martyn Dick?
15 His name is spelled with a Y.

16 A. I don't recall but it's definitely plausible that
17 I could have. I could have searched every nominal that
18 was linked on the names in the action book. Again, just
19 checks and balances to have the right date of birth, the
20 right home address, spelling. Again, just to help with
21 the accuracy of the information that I was putting my
22 name to.

23 Q. So when PIRC came back to you and said they had done
24 a data audit and they had recognised that you had done
25 these searches 1638 to 1642, did they mention

Transcript of the Sheku Bayoh Inquiry

- 1 Martyn Dick to you?
- 2 A. I don't recall. As I say, this was facilitated through
3 Professional Standards at the time, who had emailed
4 asking for that addendum statement which I provided, so
5 it's very plausible and I suppose I would have -- maybe
6 I should have asked a full audit to show -- to
7 demonstrate my full access that day, but also in that
8 environment where there are officers present assisting
9 we may have -- I may have retrieved that from someone
10 else, or had someone else carry out the check just to
11 confirm the details.
- 12 Q. You hadn't included this in your original statement or
13 your PIRC statement?
- 14 A. No.
- 15 Q. Was there a reason that you left that out?
- 16 A. An oversight in the fact that whether by covering my
17 administrative duties that would have included checks on
18 computers.
- 19 Q. And was there any similar search done on
20 Kirsty MacLeod's name, MacLeod spelled Mac, or as it is
21 Mc?
- 22 A. Not by me, potentially by officers who were involved.
23 Sometimes we have to, if we have a name and we don't
24 know the contact details we have to search systems to
25 identify an address or a phone number.

Transcript of the Sheku Bayoh Inquiry

1 Q. Can I ask you if you had any subsequent involvement with
2 the FLOs?

3 A. I never knew who the FLO was, or who was deployed.

4 Q. Did you have any hand in making arrangements to link
5 Mitchell and Parker and to arrange a briefing by them
6 with FLOs?

7 A. No.

8 Q. That was nothing to do with you?

9 A. No, and I think by that time I think it has been
10 articulated that the SIO, Detective Superintendent
11 Campbell, was more or less directly coordinating that
12 with DS Dursley.

13 Q. Right. Can I ask you, did you have any knowledge at all
14 about a discussion regarding repatriation of the body of
15 Mr Bayoh --

16 A. No.

17 Q. -- to Sierra Leone? Can I ask you to look at
18 paragraph 239 please. This says:

19 "Repatriation of Sheku Bayoh's body wasn't
20 discussed. This is part of the cultural considerations.
21 Muslims would be desired to be buried within
22 a timeframe. The body being released to the family
23 wasn't part of the discussion. It was COPFS who had
24 primacy for death investigations."

25 Can I just ask you a little bit more about that.

Transcript of the Sheku Bayoh Inquiry

1 Was there discussion at any of the Gold Group meetings
2 about Mr Bayoh's body being repatriated?

3 A. No.

4 Q. Was there any mention of Mr Bayoh's body being returned
5 to Sierra Leone?

6 A. No, and I couldn't see how there would be because by
7 that -- the two Gold Group meetings I don't think we had
8 had that engagement with the family, so how would we
9 know that detail of that request?

10 Q. You say this is part of the cultural considerations.
11 What do you mean by that?

12 A. I think part of the question and answer conversational
13 structure to the Inquiry statement would probably add
14 a bit of context of why that would come up, and as part
15 of any death investigation through consultation, liaison
16 with family, the release of the body and subsequent
17 arrangements would be discussed. I know having been
18 involved in deaths where religion plays a part, the
19 religious -- that owing that to religion there might be
20 specific requests and asks in terms of the treatment and
21 release.

22 Q. So this is something that you have come across in other
23 cases?

24 A. I'm just trying to say -- it wasn't discussed but I can
25 understand why it would be discussed but not at that

Transcript of the Sheku Bayoh Inquiry

1 time.

2 Q. And that was not part of any of your involvement -- you
3 weren't involved in any of that.

4 Then can I finally just check with you, there was
5 a third Gold Group meeting at 20.15 hours, quarter past
6 8 in the evening?

7 A. Yes.

8 Q. I think you were also present at that. Let's look at
9 the minutes of that, PS03139. I think you talk about
10 this at paragraph 255, so these are the Gold Group
11 minutes from a quarter past 8 in the evening and again
12 you appear to be present, along with all the other
13 senior officers we have mentioned before, along with
14 PIRC and MIT.

15 If we can just go down that page, I think you have
16 said in your Inquiry statement you played -- keep going
17 please -- you played no significant part in this
18 meeting. Let's stop there please and we see that
19 actually it was Detective Superintendent Campbell who
20 gave both the factual update and dealt with the
21 investigative process, at number 3, with Lesley Boal?

22 A. Yes.

23 Q. Then can you go to the very bottom please. Does it say
24 that the next meeting would be 1100 hours the following
25 day?

Transcript of the Sheku Bayoh Inquiry

1 A. Yes.

2 Q. Did you have any involvement the following day?

3 A. No.

4 Q. Were you involved at any time after actually 3 May 2015
5 in these matters?

6 A. Again, the next day starting duty was more or less
7 completing the administrative element which resulted in
8 the -- my statement and then with the action book going
9 to the MIT as it is time and date-stamped on the
10 action --

11 Q. And earlier this afternoon we looked at your action
12 book, we looked at the final entry and that recorded at
13 12.20 I think on the 4th you handing over the action
14 book --

15 A. Yes.

16 Q. -- at that time. Was that the end of your -- even your
17 administrative tasks?

18 A. Yes.

19 Q. Thank you. Can I ask you to look at paragraph 281 of
20 your Inquiry statement please. This is the second
21 Inquiry statement:

22 "Sheku Bayoh's race was a factor for us in terms of
23 our approach to his family but in my view not a factor
24 in the incident itself. It played out externally in the
25 media in the days after. Nothing was different in my

Transcript of the Sheku Bayoh Inquiry

1 actions of that day owing to race. My considerations
2 were different. In terms of cultural issues, we have to
3 consider every bespoke approach to incidents.
4 Witnesses, suspects and victims should be considered in
5 terms of equality and diversity. Race is a factor but
6 only in considering our approach. It's been portrayed
7 publicly for a number of years, in terms of
8 documentaries, etc. The police have not, until the
9 Public Inquiry, responded, for legal reasons or
10 whatever."

11 I would like to go over some of the content of this
12 paragraph. You have said that:

13 "Sheku Bayoh's race was a factor for us in terms of
14 our approach to his family but in my view not a factor
15 in the incident itself."

16 Could you explain to the Chair how was his race
17 a factor in terms of your approach to his family?

18 A. So again that -- 281 came at the end of the second
19 statement which was noted in the two periods at the
20 tail-end of last year and I think conversation and the
21 questions around that was specifically did race -- do
22 you think race played a factor in the death? And I said
23 no. Did race play a factor in the investigation?
24 I said yes, given the fact that Mr Bayoh was black, to
25 understand -- and I think I've got in my daybook in

Transcript of the Sheku Bayoh Inquiry

1 terms of the cultural considerations -- I think I've got
2 issues in my daybook in terms of how we approach any
3 family because we have to tailor that approach, taking
4 into consideration any form of kind of reasonable
5 adjustments around about the race in this instance.

6 Q. So let's look at your daybook first of all, PS18495.
7 I think if we look at page 2 you did have a reference to
8 cultural issues and a question mark --

9 A. Number 8, yeah.

10 Q. That's it, just at the bottom there. So this is item 8
11 of your notes on the 11.30 Gold Group meeting.

12 A. Mm-hm.

13 Q. And you've got "Culture issues?" So what was discussed
14 at the Gold Group meeting about culture issues?

15 A. So cultural issues, not issues with the culture, it
16 would be more about the considerations in terms of how
17 we tailor our approach to any witness, family, victim.
18 Is there anything round the kind of -- any reasonable
19 adjustments needed to make around the protected
20 characteristics and this time it would be race/religion.
21 I suppose we didn't know that until we went, so in the
22 circumstances -- other situations do they need an
23 interpreter, what other form of support does the person
24 need for us to best deliver that service to them? So
25 it's part of that again information-gathering about the

Transcript of the Sheku Bayoh Inquiry

1 profile of Mr Bayoh's family in terms of how we can best
2 deliver a service.

3 Q. So can you give us some examples? You mentioned an
4 interpreter, but give us some examples of how you would
5 tailor the approach where the victim has been black?

6 A. It was just -- it was more the needs of them to say
7 whether there was an interpreter and I think I had said
8 as part of the potential religious considerations
9 regards to post-mortem. Again, I know -- and I didn't
10 know at that time in terms of Mr Bayoh being Muslim --
11 that sometimes the family are against post-mortems,
12 sometimes there's a wish to have the body repatriated
13 within a certain amount of time and for a funeral to
14 take place. So again it was -- the question mark was
15 what do we need to consider as part of our approach?
16 Obviously I wasn't then involved in that, but again just
17 trying to do the groundwork to tailor and provide
18 a bespoke service, appreciating the needs of everybody
19 is different.

20 Q. And so in providing that tailored or bespoke service,
21 are you very much led by the individual families?

22 A. Yes, we might not know that until -- again, from that
23 information-gathering and intelligence we might get
24 a better understanding, but sometimes we won't know
25 until we make that direct contact and as part of that we

Transcript of the Sheku Bayoh Inquiry

1 would ask them in terms of what reasonable
2 adjustments/provisions they would -- to best support or
3 provide a service to them.

4 Q. And is that something that you as SIO would be involved
5 in?

6 A. More than likely.

7 Q. Creating a tailored or bespoke --

8 A. Yes, so any form of strategy, victim, witness, suspect,
9 accused as well, what would they need in terms of for us
10 to go through some form of legal process.

11 Q. What steps did you take when you were SIO to provide
12 that tailored or bespoke service to Mr Bayoh's family?

13 A. I didn't get the opportunity because that then
14 transferred over and it was not undertaken by me.

15 Q. Who was it transferred to?

16 A. To Detective Superintendent Campbell, and then
17 appreciating the actions that was coordinated through
18 DS Dursley.

19 Q. And in your mind what -- how do you define "family"?
20 How would you have defined Mr Bayoh's family? What does
21 that mean to you, "family"?

22 A. So just the full wraparound, but again so we had had
23 details of a sister in terms of next of kin. I suppose
24 that would be the first port of call to then understand
25 the kind of dynamics and the family set-up, to how we

Transcript of the Sheku Bayoh Inquiry

- 1 can best support them collectively.
- 2 Q. Only the sister, or was there anyone else that you were
3 aware of?
- 4 A. That was the only details we had and I think through
5 conversation -- not conversation, the Gold Group,
6 I understood that Chief Superintendent Garry McEwan knew
7 the sister's husband, I recall.
- 8 Q. We have heard evidence about that.
9 What about Colette Bell? Did you count her as
10 family?
- 11 A. Yes, yes, partners, that -- in terms of family liaison,
12 she would be considered in that full wraparound.
- 13 Q. Was Mr Bayoh's race a factor in terms of your approach
14 to Colette Bell?
- 15 A. Not Mr Bayoh -- again, Colette could have had any
16 protected characteristics or needs that needed to tailor
17 our approach to her because she may have helped,
18 I suppose, in terms of the information, in terms of how
19 we supported the family.
- 20 Q. So would it -- would your tailoring or bespoke service
21 only relate to someone with protected characteristics?
- 22 A. The needs -- any needs. We would try to accommodate any
23 needs of any individual that we would encounter or make
24 contact with, again for them -- to assist them in terms
25 of whatever procedure/process we needed to carry out.

Transcript of the Sheku Bayoh Inquiry

1 Q. When you talk about family in a wider sense, would that
2 include his friends?

3 A. Yes, if you had that close -- friends so close that he
4 considers them family, yes. We wouldn't discount
5 anything. And again, it would be led and done in
6 conjunction with family.

7 Q. Would that include people such as Zahid Saeed or his
8 family?

9 A. Potentially with this, given obviously his direct link
10 and that extends to all the witnesses as well.

11 Q. Martyn Dick and Kirsty MacLeod?

12 A. As part of the adjustments and considerations to how
13 we~..?

14 Q. Yes.

15 A. Anybody we encounter.

16 Q. Can I ask you to look please at paragraph 122 of your
17 first Inquiry statement, which is SBPI 133, so it's
18 paragraph 122. Can we just go up the page slightly.

19 This is the issue you were asked about the media.
20 I think you may at some point have been asked if you
21 knew anything about how the media had got hold of
22 information that a female officer had been stabbed and
23 I think in your statement somewhere you do mention that
24 you knew nothing about that, but if I can look at
25 paragraph 122 please, it says:

Transcript of the Sheku Bayoh Inquiry

1 "I have seen the views of the family, which are
2 important but I suppose they are very subjective. It's
3 just what they have read in the media, and I know they
4 have been supported by legal representation as well.
5 The documentaries and that, I've pretty much done my
6 best to avoid because, again, it is pretty drama
7 sensationalised, to be honest. And also just the way
8 it'd potentially been portrayed. There were agendas in
9 terms of suggesting the race element, etc. I just knew
10 it didn't show the full picture."

11 I would like to ask you about this. You say you
12 have seen the views of the family. Presumably you have
13 seen things on social media or in the newspapers and
14 that sort of thing?

15 A. Yes, on behalf of the family.

16 Q. And you say you suppose they're very subjective. What
17 do you mean by that?

18 A. It's their view and you have to respect anybody's view
19 I suppose. It's then is there information or evidence
20 to support that? And all I was getting was this was the
21 kind of platform for that to be either supported or
22 potentially negated.

23 Q. We have heard evidence that some of the views held by
24 the family are quite critical of the police?

25 A. Mm-hm.

Transcript of the Sheku Bayoh Inquiry

1 Q. When you say you suppose they're very subjective, do you
2 feel resistant towards the views that are expressed that
3 are critical of the police?

4 A. Absolutely not, because again some have proven to be
5 founded.

6 Q. You mention that they have been supported by legal
7 representation. Why is it you have raised that?

8 A. I think it's because -- I don't -- I have heard the
9 family speak, but also I know that they're represented
10 as well.

11 Q. Are you making any comment about the fact that they have
12 been represented by a lawyer?

13 A. No, just an observation, and rightly so.

14 Q. The documentaries, you have done your best to avoid
15 them, "It's pretty drama sensationalised, to be honest".
16 Have you watched these documentaries?

17 A. I think I watched one potentially.

18 Q. Why do you say they're drama sensationalised?

19 A. I think -- well, in the documentary in terms of how it
20 was potentially produced, again just giving -- I'm not
21 saying one-dimensional, but it was obviously devoid of
22 any police input because there wasn't the opportunity,
23 so I think that's where -- and the frustration wasn't me
24 thinking, "This is all inaccurate", it was just the fact
25 that we weren't getting the full picture, again to allow

Transcript of the Sheku Bayoh Inquiry

1 people to make an assessment. Other people's opinion
2 didn't matter, but, you know, it was more again just to
3 give that full holistic picture of what took place on
4 that day.

5 Q. Has it concerned you, some of the information that's
6 coming out through the media?

7 A. More so from the personal element relating to the
8 officers I think, and that's when I talk about agendas.
9 I don't talk about agendas about race etc because again
10 this is the platform for that to be -- the evidence
11 given to make that assessment, but more some of the
12 headlines about the officers' private lives and that's
13 when I kind of really felt for them.

14 Q. What was it you felt?

15 A. I just felt they were doing a job on that day, the role
16 of police officers, to the best of their ability.
17 Again, their actions are there to be scrutinised, like
18 us all, but how their home and private lives were
19 playing out in the public domain potentially around
20 matters that weren't linked, or had any bearing on the
21 actual events of that day, and how that would impact on
22 them personally.

23 Q. Do you feel quite defensive towards -- protective of
24 Police Scotland and some of the officers in it because
25 of the way they are portrayed in the media?

Transcript of the Sheku Bayoh Inquiry

1 A. I don't know about being defensive or protective, just
2 again with that welfare in mind how this is -- until
3 this Public Inquiry started there wasn't an opportunity
4 for them to respond effectively.

5 Q. And what is it that stops the officers responding?

6 A. Again, in terms of you talk about the legal
7 representation for the family, and rightly so, the
8 officers would be afforded that as well in terms of the
9 legal processes. I'm unsure in terms of any
10 restrictions through that.

11 Q. The words there that you have used in the final
12 sentence, "There was agendas in terms of suggesting the
13 race element"; explain what you meant by that, using the
14 word "agendas"?

15 A. It was portrayed that race did play a part in the death.
16 Obviously I was of the view, from the information I had,
17 that I didn't see that race did play a part. But again
18 that was my view from the information that I had to hand
19 at the time.

20 Q. Do you accept that -- the investigation has continued
21 since then and more information has come to light --
22 that even your understanding of the position on 3 May
23 could be different?

24 A. Yes.

25 Q. And that was only your personal view and then when you

Transcript of the Sheku Bayoh Inquiry

1 say "There was agendas in terms of suggesting the race
2 element", was this also a reference to the family
3 raising the issue of race as a possible motive on 3 May?
4 You have talked a moment ago about the Johnsons saying
5 --

6 A. Yes, I knew that that was obviously introduced by the
7 family when the officers returned and again I don't
8 even -- I don't even know if the fact that what's been
9 portrayed is accurate from the family's perspective, or
10 if that's something that the media have generated in
11 terms of keeping this in the public domain, I don't
12 know.

13 Q. Do you accept that the word "agendas" has quite negative
14 connotations?

15 A. Yes, I would probably reflect on that. It was more it
16 seemed to be the sole -- the sole motive and element was
17 race, where I think as I have tried to portray is that
18 we should keep an open mind to being inclusive or
19 considering every eventuality, as opposed to exclusive
20 to one.

21 Q. And when you say you would reflect on that, if you
22 reflect on that right now do you think that maybe that's
23 a word that is quite a negative --

24 A. Yes, no, I agree and --

25 Q. Would you like that word to be changed effectively?

Transcript of the Sheku Bayoh Inquiry

1 A. If I was -- is that my initial statement to the Inquiry?

2 Q. This is your initial statement to the Inquiry.

3 A. Yes. Yes, it's not how I intended it to come across.

4 MS GRAHAME: Thank you. I am conscious of the time.

5 LORD BRACADALE: Yes, shall we stop there. So we will

6 continue with your evidence tomorrow morning,

7 Chief Inspector. 10 o'clock.

8 (4.17 pm)

9 (The Inquiry adjourned until 10.00 am on Friday,

10 3 March 2023)

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25

Transcript of the Sheku Bayoh Inquiry

INDEX

1	
2	DI COLIN ROBSON (continued)1
3	Questions from MS GRAHAME (continued)1
4	
5	
6	
7	
8	
9	
10	
11	
12	
13	
14	
15	
16	
17	
18	
19	
20	
21	
22	
23	
24	
25	