

Transcript of the Sheku Bayoh Inquiry

Tuesday, 28 February 2023

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(10.11 am)

LORD BRACADALE: Good morning, Mr Dursley. Would you raise your hand and say the words of the oath, please.

MR GRAEME DURSLEY (sworn)

LORD BRACADALE: Ms Grahame.

Questions from MS GRAHAME

MS GRAHAME: Good morning. You are Graeme Dursley.

A. That's correct.

Q. And you are a temporary detective inspector, is that correct?

A. I was until yesterday, but I have just been promoted in the rank.

Q. Congratulations.

A. Thank you.

Q. What age are you, detective inspector?

A. I'm 44 years old.

Q. And in 2015, during May 2015, in the events we're discussing, what rank were you when you were involved in the enquiry into --

A. I was a detective sergeant.

Q. And you joined the police in 1996?

A. That's correct.

Q. And at that time, as I understand your statement at paragraph 10, you were the line manager for Wayne Parker

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- 1 and Calum Clayton, is that correct?
- 2 A. That's correct, yes.
- 3 Q. We have also heard from a DC Mitchell, Andrew Mitchell.
- 4 Did you have a line managerial responsibility in
- 5 relation to him?
- 6 A. Not at that time. He worked at a different station.
- 7 Q. Was he at Levenmouth or ...?
- 8 A. I think he was actually at Glenrothes.
- 9 Q. Now, this morning, we have been given some additional
- 10 documents which may assist you. I understand they are
- 11 rank and postings -- rank, postings and training records
- 12 and a copy will be made available to everyone else in
- 13 due course. They will be SBPI00271 and we have given
- 14 you a copy, just in case you want to refer to it, or you
- 15 need to look at it at all today. And can you see the
- 16 blue folder in front of you?
- 17 A. Yes.
- 18 Q. Please feel free to open it. These are for your
- 19 assistance, if you wish them at any point today.
- 20 There's copies in there of statements that you have
- 21 given, we will go through these in a moment, and there
- 22 is a copy of the rank, postings and training records as
- 23 well, which I think is at the rear.
- 24 A. Yes.
- 25 Q. As I understand it, that contains details of your

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1 postings and rank throughout your career with the police
2 and also the training courses that you have attended.
3 And if you want to refer to that, just let me know.

4 A. Okay.

5 Q. Let's have a look, first of all, at some statements that
6 you have given previously. Could we look at PIRC 00136.
7 You will see as we come to this that this is going to be
8 coming up on the screen in front of you and if you
9 prefer, you can just simply look at the screen. If
10 I want to refer to anything, it will come up there. If
11 you don't feel comfortable looking at the screen, you've
12 got the hard copies in the blue folder.

13 A. Okay.

14 Q. So this is, as I understand it, an operational statement
15 by yourself, Graeme Dursley. Your occupation is given
16 as "Detective Sergeant".

17 And if we just go down the page slightly, it says
18 the date of the statement is 4 May 2015 at 11.00 hours
19 and it is "Self", so that was a self-penned statement by
20 you. You wrote this yourself?

21 A. Correct.

22 Q. Others have called them operational statements, is that
23 right? And this was done by you at Levenmouth and am
24 I right in saying that this was the day after you became
25 involved in the investigation into -- sorry, maybe

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1 we're -- I will need to get you to speak into that.

2 I think that's what the concern is, maybe that people

3 can't hear you as well as they might.

4 A. Okay, apologies.

5 Q. No, it's not your fault, don't worry about it. I will

6 make sure that when you answer the questions if you can

7 be facing into the -- speaking into the microphone, that

8 will help.

9 A. Yes, okay, thank you.

10 Q. Thank you. Let's just go back over this. It is an

11 operational statement on the screen at the moment from

12 the day after Mr Bayoh died, 4 May 2015. You wrote this

13 yourself at 11 in the morning on that date.

14 A. That's correct.

15 Q. And were you doing your best on that date to give a true

16 and accurate record of your involvement in these events?

17 A. Yes, I was.

18 Q. Thank you. I think in paragraph 5 of your Inquiry

19 statement you have said that your recollection then was

20 better than it is now, is that fair to say?

21 A. That's -- I agree with that.

22 Q. Thank you. And then let's look at PIRC 00137. So this

23 is a separate statement that will come up on the screen.

24 And again, you've got your hard copy in your folder in

25 front of you. This is a statement taken on 11 June 2015

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1 at 1050 hours. So that's just over a month later.

2 A. Yes.

3 Q. And it was taken by Ross Stewart in the presence of

4 Brian Dodd at Levenmouth police office.

5 A. Yes.

6 Q. And, as I understand it, these are two individuals who

7 came to speak to you on behalf of PIRC?

8 A. That's correct.

9 Q. And you were asked to clarify some of the points that

10 you had made in your previous operational statement?

11 A. Yes.

12 Q. And again were you doing your best to give a true and

13 accurate record of your involvement that day?

14 A. Yes.

15 Q. Thank you. Then can we look at PIRC 00138. Now this is

16 another statement. This one is dated 14 December 2015

17 at 9.30 and you wrote this yourself at Kirkcaldy Police

18 Station.

19 A. Yes.

20 Q. Again, were you doing your best to give a true and

21 accurate record of the involvement you'd had in the

22 investigation in relation to Mr Bayoh?

23 A. Yes.

24 Q. We'll come back to this in a moment. Can we turn to

25 your Inquiry statement. This is SBPI00228. Again, you

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1 have a hard copy in your folder and this will come up on
2 the screen in a moment.

3 And while we wait for that to happen, I will just
4 say, you can tell us from the hard copy you have, it is
5 41 pages long. There's 202 paragraphs. And if we look
6 at the final page, we can see that you have signed it on
7 the final page, and all the pages in fact, on 12 January
8 this year.

9 A. That's correct, yes.

10 Q. Now, when it does come up on the screen, we won't see
11 your signature, it will be redacted, but it's there on
12 your hard copy.

13 A. That's correct.

14 Q. And if we look at the final paragraph, which is 202,
15 right at the end, just above your signature, we can see
16 paragraph 202, it says:

17 "I believe the facts stated in this witness
18 statement are true. I understand that this statement
19 may form part of the evidence before the Inquiry and be
20 published on the Inquiry's website."

21 And you understand that that's the case?

22 A. Yes.

23 Q. Thank you. And again, you have done your best in this
24 statement to the Inquiry, although obviously a number of
25 years later, to be truthful and to give an accurate

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1 account of what was happening?

2 A. Yes.

3 Q. At the time?

4 A. Yes.

5 Q. Now, as well as these statements, if we begin by looking
6 at paragraph 18 of this Inquiry statement.

7 You will see that you have given us a number of
8 details about something called the daybook, and this is
9 between paragraphs 18 to 30. And in paragraph 19, you
10 talk about daybooks, and I will come to those in
11 a moment, but you explain the difference between
12 a daybook and a notebook. Just for everyone who is
13 listening, could you tell us what the difference is
14 between those two documents?

15 A. A police notebook is something that's issued to all
16 officers and the expectation is officers will use
17 a notebook to complete and include important information
18 from their days on duty as a police officer. So in
19 addition to that, I keep a daybook, which is more for
20 generally keeping details of what staff are on duty,
21 potentially if there's welfare issues, something that
22 you may not want to put in a formal police notebook.
23 But over the years, the way I have used my daybook is on
24 occasions, I have included things in it which may also
25 go in a police -- or should go in a police notebook.

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1 So I have on occasions -- and this is a perfect
2 example -- lifted my daybook when I have left the office
3 and when I'm getting updates, I have scribbled them in
4 a daybook as opposed to putting the notes in my police
5 notebook.

6 Q. Right. And if we look at paragraph 22, first of all.

7 And we will look at this in a moment, we see:

8 "I wrote in my notebook at page 1 ..."

9 And you have given a date "Sunday 3rd May 2015":

10 "Short/Paton/Walker - went for Nicole.

11 Tomlinson - baton to head."

12 Let's look for a moment at PS01066, please. So this
13 is the document we see on the screen. It is two
14 pages really of a lined book.

15 Now, is that your daybook or your notebook?

16 A. That's my daybook.

17 Q. That's your daybook?

18 A. Yes.

19 Q. So we can see handwriting there. Left-hand side, it
20 says, "Sunday 3rd May 2015". Right-hand side, we see
21 Collette Bell's name at the top.

22 A. That's correct.

23 Q. Is this your handwriting?

24 A. That's my handwriting.

25 Q. And this is your daybook where you're scribbling notes?

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- 1 A. Yes.
- 2 Q. Are they contemporaneous notes as you find things out,
3 or is this document prepared later?
- 4 A. No, these are notes that -- so if I'm taking a call or
5 an update from someone, I will be listening to that
6 person or potentially with the phone in my ear and when
7 I'm taking an update, I would put things down and
8 I could potentially refer to that later. So it's just
9 bullet points effectively as to updates that I'm
10 getting.
- 11 Q. Are they an aide memoire, these notes?
- 12 A. Yes, you could use them as an aide memoire. So if I'm
13 giving information later on, I may look back to my book
14 and say, "Yes, that's what I've got".
- 15 Q. Thank you. Then at paragraph 23, if we can go back to
16 your Inquiry statement, so that's SBPI00228, and if we
17 can look at paragraph 23. And you say:
- 18 "These are notes that I must've got from someone
19 I don't know."
- 20 So is much of the information in your daybook from
21 different sources?
- 22 A. It could come from a variety of different sources, yes.
23 Potentially something I have been told or something
24 I have read or something I think, "I need to write that
25 down".

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- 1 Q. Then it says:
- 2 "No source of information and no time."
- 3 What do you mean by that?
- 4 A. What I could say is I have not written next to that --
- 5 sometimes I will put a name as to who that information
- 6 has come from, or what officer is telling me that, and
- 7 sometimes I will put a time and date as to when I'm
- 8 getting that information. But I have written that down
- 9 and I don't have a reference for that as to where I've
- 10 got that information unfortunately.
- 11 Q. So sometimes you might detail the source or the time you
- 12 receive the information, sometimes you don't?
- 13 A. That's right.
- 14 Q. And presumably if I ask you about when you found out
- 15 information or who from, that that might -- there might
- 16 be difficulties for you remembering?
- 17 A. I will do the best I can to try and identify who is
- 18 giving me that information. If it's marked there,
- 19 I will hopefully be able to tell you that.
- 20 Q. Thank you. Then you say:
- 21 "Nicole is officer Nicole Short."
- 22 So when we saw the reference to "Nicole" in the
- 23 daybook a moment ago, that would be to PC Nicole Short?
- 24 A. That's right, yes.
- 25 Q. "Don't know where that comes from. When I'm writing,

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1 sometimes I may jump around to come back to add
2 information about a subject, so no guarantee these notes
3 are in chronological order."

4 Explain what you mean by that.

5 A. So if I was getting an update from an officer and they
6 may give me some information, and then I speak to
7 someone else and then put further notes, if I go back
8 and speak to that first officer again, I may flip back
9 my page and then write further information that's coming
10 from that officer or source back in there, so it just
11 means it doesn't flow in the order that I'm getting it.
12 So what I'm trying to say is that the daybook that
13 I have may not be exactly as the order I have received
14 that information.

15 Q. So if the Chair is looking at your daybook at a later
16 time, that's something that he can bear in mind?

17 A. Yes.

18 Q. Thank you. When I looked a moment ago at the first
19 daybook, you will see there we have the typed version,
20 it said, "Sunday 3rd May 2015", so that was the date at
21 the top that you had handwritten. Were all the notes
22 from that date?

23 A. Yes.

24 Q. Now, you say in paragraph 190 of your Inquiry statement
25 that you were only involved on 3 May. We will see that

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1 on the screen in a moment. We just passed -- there we
2 are:

3 "I had no further involvement in this after
4 3 May 2015."

5 Is that the only day that you were involved?

6 A. It's the only day, other than preparing a statement or
7 interviews with the PIRC, but in terms of actual
8 involvement with the case that was the only day.

9 Q. All right. So in terms of your day books and the notes
10 written in the day books, were they all prepared on
11 3 May 2015?

12 A. That was all on 3 May, yes.

13 Q. Thank you. Well, let's just go through those very
14 briefly just to see them. We have looked at 1066. If
15 we can look now at PS1067. Again, it appears to be two
16 pages again from your daybook. There's no date on that,
17 but I think you have explained these are from 3 May.

18 A. That's correct.

19 Q. And then 1068, PS01068, here we are, and again two
20 pages. It says, "Collette Bell" at the top left. We
21 see, for example, on the left-hand side, a timing,
22 10.45. What does that say?

23 A. That's the time I was making those notes.

24 Q. Right. Can you read that writing?

25 A. Yes, yes, I can read that.

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- 1 Q. And what does it say?
- 2 A. It says, "10.45 -", then it says "chunk" and then it
- 3 says:
- 4 "Death message - DC Parker."
- 5 And then the line below, it says:
- 6 "Tell Collette black male dead."
- 7 Q. Thank you. And on the next page, on the right-hand
- 8 side, we see the name at the top, Martyn Dick.
- 9 A. Yes.
- 10 Q. What does it say under that, PC ...?
- 11 A. PC Bryson and PC Murphy.
- 12 Q. Thank you. And then "Locus", we see redacted Dick and
- 13 MacLeod home address, and then some other things
- 14 underneath that?
- 15 A. That's right.
- 16 Q. And then the name Zahid Saeed?
- 17 A. Yes.
- 18 Q. And then it says:
- 19 "Actions -- Zahid Saeed
- 20 -- Martyn Dick."
- 21 A. Yes.
- 22 Q. Were those names of two possible witnesses you had
- 23 become aware of?
- 24 A. Yes.
- 25 Q. Again, we don't see any timings on the right-hand side,

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- 1 but again, that would have been 3 May?
- 2 A. That's correct.
- 3 Q. Then if we could look at 1069, another two pages from
- 4 your daybook on 3 May and this time we can see on the
- 5 left-hand side, the names at the top are Kirsty MacLeod
- 6 and Martyn Dick?
- 7 A. Yes.
- 8 Q. And then we also see halfway down, "Ashley Wyse"?
- 9 A. Yes.
- 10 Q. Do you remember what you were aware of in relation to
- 11 Ashley Wyse?
- 12 A. I think that was another witness that we were looking to
- 13 try and action to go out and speak to.
- 14 Q. Thank you. What's the wording to the right of the name
- 15 Ashley Wyse?
- 16 A. That's "Lothians officers".
- 17 Q. Was that the officers you were sending to trace
- 18 Ashley Wyse?
- 19 A. Yes, I believe it would be, yes.
- 20 Q. So from a different area?
- 21 A. That's correct.
- 22 Q. Then if we can look at PS01070, again another two
- 23 pages from your daybook on 3 May, and we see here the
- 24 name at the top is "Kadi Johnson".
- 25 A. Yes.

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1 Q. Can you see that?

2 A. Yes.

3 Q. Obviously my copy on the screen is redacted, but you
4 will have the copy with your writing there. And then
5 underneath, it says --

6 A. The copy I've got is redacted as well.

7 Q. Is it?

8 A. Yes.

9 Q. "Next of kin sister"?

10 A. Yes.

11 Q. And then 1510 hours?

12 A. That's correct.

13 Q. Do you remember what that was in connection with?

14 A. That was at the time that I was being asked to then pass
15 the subsequent message to the family as opposed to
16 Collette.

17 Q. We will come back to that. And then underneath that, it
18 says:

19 "10 pm at her [home]."

20 A. At her house, I think it is.

21 Q. At her house, sorry. And what does it say after that?

22 A. It looks like, "Drinking at that time, Zahid Saeed left
23 before", potentially.

24 Q. And then it says, "FLO"?

25 A. "FLO contact".

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1 Q. "FLO contact", do you remember what that was a reference
2 to?

3 A. That was reference to, they were looking to get FLOs
4 deployed to the family.

5 Q. Right.

6 A. And that they were to be told that there would be FLO
7 contact.

8 Q. And we have heard that FLO is family liaison officers?

9 A. That's correct, yes.

10 Q. And then underneath that, can you read the time there of
11 the next entry that you've got?

12 A. It is actually just cut off on the printed version here
13 as well:

14 "Statement to family -- provided to DC Mitchell."

15 Q. And when it says:

16 "Statement to family -- provided to DC Mitchell."

17 We have heard evidence that DC Mitchell attended at
18 the Johnsons' house in the afternoon to deliver a death
19 message and he -- would that be the type of thing that
20 you were noting in your daybook?

21 A. That was the time that I believe contacted DC Mitchell
22 to tell him what it was that we were looking to pass.

23 Q. Can you read what that time is?

24 A. It's just cut off. I think it is 1610 hours.

25 Q. All right, thank you. And then can we look at PS01071

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1 and on the left-hand side of this page of the daybook,
2 it is Zahid Saeed. And was this in connection with --
3 we have heard Mr Saeed is -- was a friend of Mr Bayoh.
4 A. (Nods).
5 Q. And had contact with the police on 3 May?
6 A. That's right, yes.
7 Q. So are these notes in relation to him?
8 A. Yes.
9 Q. And then on the right-hand side, it appears to say
10 1435 hours and can you tell us what's written there?
11 A. Alistair Lewis, John Clerkin.
12 Q. Who are they?
13 A. I actually don't know.
14 Q. Could they be from PIRC?
15 A. Possibly.
16 Q. Right. And then you have a number of it would appear
17 officers listed on the right-hand column?
18 A. That's right, yes.
19 Q. That doesn't appear to be lined. Is that something
20 separate from the daybook?
21 A. That was a piece of paper that I got on the day and when
22 I was speaking to officers, who effectively didn't know
23 who -- the majority of them didn't know who they were,
24 asked them to write their name, show their number, where
25 they worked and a telephone number, just so I knew who

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1 the people were that I was working with that day.

2 Q. And were these officers who had been drafted into

3 Kirkcaldy from other areas --

4 A. That's right, yes.

5 Q. -- to assist?

6 A. Yes.

7 Q. And they included John MacGregor?

8 A. Yes.

9 Q. Simon Telford?

10 A. Yes.

11 Q. And a number of other officers, including an Alan

12 Monteith and a David Bellingham?

13 A. That's correct.

14 Q. Then can we finally look at PS01072. This is the final

15 page from your daybook. And on the left-hand side, it

16 says:

17 "Sister. NOK [next of kin]

18 -- Kadi Johnson."

19 And then on the right-hand side, it is redacted, it

20 says Tuesday, 5 May 2015.

21 A. That's right.

22 Q. And was that -- what happened to 4 May?

23 A. I have not included that day in my daybook.

24 Q. Can you explain why?

25 A. No. I was on duty that day. There's no particular

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- 1 reason for it.
- 2 Q. Right, thank you. Can we go back to your Inquiry
3 statement, please. I would like to look at
4 paragraph 22, please. 22 of -- thank you. And this
5 relates back to the -- I think it says there "notebook",
6 but these are your daybook entries.
- 7 A. Yes, that's my daybook, apologies.
- 8 Q. Not at all. And it is from Sunday 3 May and it says:
9 "Tomlinson - baton to head."
10 So is that something that you were made aware of on
11 3 May?
- 12 A. That must have been information I have been told at some
13 point for me to put that down there.
- 14 Q. And we have heard evidence that PC Tomlinson had used
15 his baton and struck Mr Bayoh on the head. Would that
16 be the information you had been given?
- 17 A. That's information that I have recorded at that point,
18 yes.
- 19 Q. Do you remember who gave you that information?
- 20 A. I'm really sorry, I don't know.
- 21 Q. Do you remember when on 3 May you were aware of that?
- 22 A. Well, that's the first thing I have written in the book.
23 Now, I know I have said it doesn't go in chronological
24 order, but generally, it will do. So that's probably
25 one of the first things -- in fact that would have been

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- 1 the first thing I have been told about that incident.
- 2 Q. Right. Did you have your daybook with you when you
- 3 first arrived?
- 4 A. Yes, because when I left Levenmouth, I grabbed it and
- 5 took it with me.
- 6 Q. So at a reasonably early stage, on Sunday 3 May,
- 7 although we don't have an exact timing?
- 8 A. We don't have an exact timing, no.
- 9 Q. Can we look at paragraph 23 which we see at the bottom
- 10 there. We have already covered that. You have
- 11 explained the position on the chronological order. And
- 12 then if we could look at paragraph 29, and we see
- 13 there -- again, it mentions "notebook", but I think
- 14 we're talking about entries in the daybook?
- 15 A. That's correct.
- 16 Q. And it mentions "Kirsty MacLeod", and if we could just
- 17 move down that page slightly. Yes. And it says there:
- 18 "Paranoid - thinks? Speak about him.
- 19 Seems unusual - thinks MDMA.
- 20 Seen him take it before.
- 21 Fell out & leaves."
- 22 What were your notes in connection with that we see
- 23 transcribed there?
- 24 A. I believe that's updates I've got from officers who have
- 25 been speaking to Kirsty MacLeod. So that may have been

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1 a call that I have taken from officers who are telling
2 me what she is effectively saying and that's some of the
3 small points I have noted when I'm getting those
4 updates.

5 Q. So at that point you're being advised that someone
6 thinks there was maybe MDMA involved. We have heard
7 that that's another name for Ecstasy, is that correct?

8 A. I believe so, yes.

9 Q. Thank you. Let's go back, please, to PIRC 00136 and
10 this was your first operational statement and this was
11 the one that you wrote yourself on 4 May 2015 at 11 in
12 the morning. And you've got your copy in front of you.

13 A. Yes.

14 Q. And if we can look at page 1 and if we can look at
15 paragraphs 2 and 3, you say here that:

16 "About 0740 hrs, [on 3 May], I was made aware of
17 a serious incident in the Kirkcaldy area. It was
18 requested that I attend Kirkcaldy Police Station to
19 assist in the initial investigation. I arrived for
20 other 'P' Division staff to attend at Kirkcaldy Police
21 Station to assist in the initial enquiry."

22 Was this your first involvement on 3 May?

23 A. Yes.

24 Q. What time did you arrive at Kirkcaldy that day?

25 A. I don't have an accurate time but it's maybe, by the

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1 time I got my things together, just after 8 am.

2 Q. Just after 8. When you arrived at Kirkcaldy who was
3 there? Do you remember the names of any of the
4 officers?

5 A. In terms of officers that were involved in ...

6 Q. In the investigation in relation to these events?

7 A. I was -- almost certainly I was one of the first there
8 and then officers come along -- other officers from
9 Levenmouth and then Glenrothes. So it would have been,
10 for example, DC Mitchell, and DC Clayton and DC Parker,
11 they arrived not long after.

12 Q. And can I look at paragraph 38 of your Inquiry
13 statement, please. You say here:

14 "I didn't have a full understanding of this. Nobody
15 explained the role of PIRC or [Crown Office] in the
16 investigation. Crown Office investigate the death and
17 we act on behalf [of] Crown Office. I never seen any
18 involvement with any Fiscals. I cannae remember
19 speaking to PIRC on the day either. Normally, there are
20 circumstances when SIOs would be in contact with Fiscals
21 to make them aware of deaths. As DS I wouldn't do that
22 unless specifically asked to."

23 And can you explain whether you were given an
24 explanation on the day when you arrived as to who was
25 going to be involved in the investigation?

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- 1 A. When I first arrived?
- 2 Q. Yes.
- 3 A. Nobody explained -- nobody spoke about, you know, other
4 agencies coming in at that point. That was slightly
5 later on when I was updated that PIRC would become
6 involved in this and they would be involved in
7 effectively taking on the investigation.
- 8 Q. Right. When you first arrived, who was in charge?
- 9 A. In charge of myself and the detectives that were there?
- 10 Q. Yes.
- 11 A. Colin Robson would have been my line manager and the
12 person that I would be speaking to and reporting to.
- 13 Q. Right. What was his role that day?
- 14 A. He was the duty senior investigating officer for -- in
15 the division at that time, so he would have been
16 responsible effectively for incidents that occurred over
17 the course of that weekend.
- 18 Q. And when you say "responsible", what does that mean to
19 someone who is not a member of the police service?
- 20 A. So, for me, that's someone that's got -- takes ownership
21 and control of an investigation effectively and
22 identifies, you know, what is required to effectively
23 deal with what is happening. So that's the person that
24 would take control of this incident.
- 25 Q. Right. We have heard other evidence that you and Robson

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1 worked closely together that day, is that correct?

2 A. Yes, I would say that, yes, we did.

3 Q. Are you able to give us a little bit more detail and
4 explain how his role and your roles differed?

5 A. Colin, for me -- sorry, DI Robson, for me, was the
6 person who was dealing with the senior management who
7 had been called out for this incident. He was trying to
8 deal with a number of different sergeants who were on --
9 so Colin was getting a lot of people feeding into him
10 and I was one of those people. And, for me, I was
11 an officer who was taking on certain strands of the
12 enquiry effectively on behalf of that SIO. So I'm
13 trying to relieve some of the pressure on Colin, to be
14 fair, because there's a lot happening at that time and
15 I'm trying to take on part of that work. So we would
16 work closely together. We weren't sitting next to each
17 all day at all, but we would speak when we could
18 throughout the course of the day.

19 Q. And when you say "when we could", how would you speak to
20 each other?

21 A. If we're in the office, it would be face-to-face or
22 I would phone him if he was with other people or if he
23 was out of the office. So although we did work closely,
24 you know, I didn't spend the day with him effectively.
25 There were points when we were separate.

Transcript of the Sheku Bayoh Inquiry

1 Q. Were you both based in Kirkcaldy Police Office that day?

2 A. I was based for the whole day in what was the detective
3 constables' room, so I was based in there the full day.

4 Q. And how much time did Robson spend in that room?

5 A. I couldn't actually give an accurate answer to that,
6 because he was going between different people and taking
7 different calls and going to different meetings, so he
8 was -- he was there for me when I needed him, but he was
9 obviously very busy with what was happening.

10 Q. Okay. Can we look at paragraph 35, please. This is
11 your Inquiry statement and you say here:

12 "I only had contact with two senior officers, very
13 brief contact with Garry McEwan referred to in my PIRC
14 statement, and Pat Campbell gave me a note with a form
15 of words. I never had any other contact with senior
16 management. I would say Colin Robson would form part of
17 senior management, the upper chain. I would call myself
18 a first line manager. I'm a sergeant, you are involved
19 on facilitating what happens and feed into management.
20 But I wouldn't say I was involved in making significant
21 decisions on that day."

22 And again, just so that people can start to
23 understand your role, you have talked about you being
24 a first line manager. What does that actually mean?

25 A. So for the rank structure for the police, constable,

Transcript of the Sheku Bayoh Inquiry

1 sergeant, inspector, chief inspector, superintendent,
2 chief superintendent, and then the senior ranks of the
3 service. So effectively, the constables would report to
4 myself and I would report to the inspector and as it
5 goes further up the line. You know, people can report
6 direct from constable level to inspector level, but on
7 that day, I was trying to collate information to get
8 that to them from the witnesses that I was speaking to.

9 Q. And you have said already that in terms of the
10 hierarchy, you would be sharing information with
11 DI Robson?

12 A. Yes.

13 Q. And you have talked about the senior management upper
14 chain. Talk to me about that. If Robson is part of the
15 senior management, the upper chain, what does that mean?

16 A. I describe that as, you know, really for -- inspector,
17 for me, is middle management and the upper level is your
18 superintendent levels and above. So the senior
19 management that were there on the day.

20 Q. Right. Do you remember who the senior management were
21 on that particular day, 3 May 2015?

22 A. Well, I clearly know Garry McEwan and Pat Campbell,
23 because I have mentioned them both there in my statement
24 and I know that they were not, I don't think, on duty.
25 I'm pretty sure they were called out because of this

Transcript of the Sheku Bayoh Inquiry

1 incident. So I'm unsure who was the duty officer that
2 was on that day, that would have been on duty.

3 Q. We may hear that Pat Campbell was the duty officer that
4 day. He was a detective superintendent?

5 A. That's right.

6 Q. So in terms of the hierarchy of management, if we start
7 with you, you have told us that you would feed into
8 DI Robson?

9 A. Yes.

10 Q. And then what would DI Robson's role be in terms of
11 feeding it up to the upper chain?

12 A. He would effectively speak to him and brief the senior
13 managers of the information that we're getting as the
14 investigation develops. So if he is getting -- I'm
15 feeding in and other people feeding in to him, my
16 understanding or expectation would be that would then be
17 shared.

18 Q. And would that be shared with Pat Campbell and
19 Garry McEwan?

20 A. Certainly Superintendent Pat Campbell, because he was
21 the detective super and was there earlier in the day.
22 And in terms of Garry McEwan, I genuinely don't know
23 what his involvement was or when that started.

24 Q. In terms of when you arrived at Kirkcaldy, did people
25 explain their individual roles in the investigation?

Transcript of the Sheku Bayoh Inquiry

- 1 A. I didn't sit down with any of the senior managers for
2 them to say, "I'm doing this, you're doing that".
3 However, because I have worked with Colin previously --
- 4 Q. Is that --
- 5 A. I wouldn't -- -- Colin Robson, apologies.
- 6 Q. No, not at all.
- 7 A. I wouldn't expect him to do that, because we would know
8 and you understand, you know, the working relationship
9 and what would be happening.
- 10 Q. So you, from previous experience, knew that Detective
11 Inspector Colin Robson would be your senior officer?
- 12 A. Yes.
- 13 Q. Right. Did you need to know -- in the role that you
14 were performing that day, did you need to know who the
15 more senior officers were to Colin Robson?
- 16 A. I don't think I needed to know, but I did know, because
17 ultimately, I did have contact with Mr Campbell later on
18 in the day, along with Garry McEwan. You know, if
19 I needed to speak to those managers, I know where
20 I could have went to find them if I couldn't get Colin.
- 21 Q. So you didn't have any confusion in your mind about who
22 anyone was or what their role was?
- 23 A. No, it was clear to me there was a structure in place
24 there.
- 25 Q. Right. Could I ask you to look at PIRC 00136, please.

Transcript of the Sheku Bayoh Inquiry

1 Now, this is your statement from 4 May 2015 and if we
2 could look at page 2, paragraph 1.

3 (Pause).

4 Sorry, I think I have maybe got a typo in my notes.
5 What I wanted to ask you about was, as I understand it,
6 you were updated on attendance -- sorry, it's at the
7 bottom of page 1 and goes on to the top of page 2, so it
8 says:

9 "On attendance I was updated by duty SIO DI Robson.
10 At that time it was confirmed that a male had been seen
11 in the area of Hendry Road/Hayfield Road Kirkcaldy in
12 possession of a knife. I was informed that during
13 contact with the police the male was unresponsive."

14 Do you remember when you were updated by DI Robson?

15 A. I think that was during the initial phone call that he
16 got that he gave me to say to try and get the officers
17 through to Kirkcaldy and get myself through there.

18 I think that was quite early on.

19 Q. So where it says here, "On attendance I was updated", at
20 the bottom of page 1, is that incorrect, or is your
21 memory different now?

22 A. I can't say that for certain. I remember getting the
23 phone call from him and saying, "Get to Kirkcaldy" and
24 I think, at that time, he did give me an initial update
25 as to what's taking place.

Transcript of the Sheku Bayoh Inquiry

1 Now, I may have had that by the phone call to start
2 with and then a further update when I got to Kirkcaldy,
3 but if I'm right in saying when I got to Kirkcaldy,
4 I don't think DI Robson was there at that point.

5 Q. Where was DI Robson?

6 A. He had -- I believe he had been out to the scene.

7 Q. So when you arrived at Kirkcaldy, you have told us it
8 was just after 8, DI Robson wasn't in Kirkcaldy Police
9 Office at that time?

10 A. No, I don't remember him being there at that time.

11 Q. So the reason you knew he was in charge was -- because
12 had it been Robson that called you prior to that?

13 A. It was Colin Robson that had called me and also when
14 you're working a weekend, you know who the detective
15 inspector is who is on duty, so I knew that he would be
16 the person that would be in charge.

17 Q. Right, okay. How long after you arrived did DI Robson
18 come back to Kirkcaldy Police Office?

19 A. I don't know that.

20 Q. Is there a difference between an update and a briefing?
21 You talk there about being updated by Robson. Is there
22 a difference between that and being briefed?

23 A. No, it's information, it's different words for receiving
24 information.

25 Q. Right, thank you. Is there a record in one of your day

Transcript of the Sheku Bayoh Inquiry

1 books of the update you were given by DI Robson?

2 A. Not that I could attach specifically to DI Robson.

3 There are things in my daybook, which may have come from

4 DI Robson, but I can't say that for certain what's come

5 from where in my daybook.

6 Q. When did you start completing your daybook? Was it when

7 you received the call or when you arrived at Kirkcaldy?

8 A. When I arrived at Kirkcaldy, I believe.

9 Q. Now, we have heard evidence from DC Parker. You have

10 mentioned DC Wayne Parker.

11 A. Yes.

12 Q. And he had noted in his notebook that at 8.20 that

13 morning a briefing took place at Kirkcaldy, after he had

14 arrived and after DC Mitchell had arrived and DC Clayton

15 had arrived.

16 A. Okay.

17 Q. Was this a different briefing from the update you had

18 received from Robson or was it the same thing?

19 A. I don't know. Did Wayne say who gave the briefing at

20 that time?

21 Q. Yes. He says it was either you or Robson.

22 A. Okay.

23 Q. Well, let me just give you a note of what he says. In

24 his notebook, he said:

25 "0820 attended at Kirkcaldy for a briefing."

Transcript of the Sheku Bayoh Inquiry

1 In his Inquiry statement, he said, at paragraph 51,
2 that:

3 "Either Robson or Dursley gave the briefing."

4 At paragraph 52, he said that you gave the briefing
5 and in his PIRC statement he had said:

6 "I'm not 100% sure, but I think DI Robson gave the
7 briefing."

8 And I'm wondering if you can help us find out who
9 actually gave that briefing?

10 A. I'm sorry, but I actually can't. I can't say for
11 certain who that would be.

12 Q. If you and DI Robson had been in a room giving
13 a briefing to other officers, who is more likely to have
14 given a briefing?

15 A. It would be more likely --

16 Q. Does it depend on rank or role or any of those things?

17 A. It depends on who has got probably the most information
18 and actually if you're giving a briefing and someone has
19 got information that someone else has got, two people
20 could put into that as well.

21 Q. So who had more information at 8.20 on 3 May 2015?

22 A. DI Robson.

23 Q. Right. Can we look please at your Inquiry statement
24 again, paragraph 34. You talk here about arriving at
25 the police station -- that will be Kirkcaldy Police

Transcript of the Sheku Bayoh Inquiry

1 Office:

2 "... and the initial SIO in charge was Colin Robson.
3 I knew he was in charge because he was the weekend SIO
4 and I knew that already. He contacted me to say there
5 was an incident and to gather staff to head to
6 Kirkcaldy. He was my point of contact throughout the
7 day, however I know as the day progressed CID and
8 uniform attended who I suspected would've taken overall
9 control."

10 You use the phrase there "point of contact". Does
11 that have a special meaning?

12 A. No.

13 Q. So what does it mean?

14 A. He is the person I would report to.

15 Q. And who were the CID and uniform that you talk about
16 there?

17 A. What I'm saying there is I'm aware that both the CID and
18 uniform had attended the initial call, so that officers
19 that had been dispatched to the scene. What I'm saying
20 is that both, there were CID officers and uniform
21 officers attended that incident.

22 Q. Right. Let me just go over that. So:

23 "He [Robson] was my point of contact throughout the
24 day ..."

25 A. Yes.

Transcript of the Sheku Bayoh Inquiry

1 Q. "... I know as the day progressed CID and uniform
2 attended ..."

3 Are you talking about them attending Hayfield Road?

4 A. I'm actually -- I would like to know what the question
5 was for that to be my answer.

6 Q. Do you want to see the previous paragraph? You are
7 being asked about your role on 3 May 2015. It starts at
8 paragraph 33. And you talk about being a detective
9 sergeant at Levenmouth CID and being asked to go to
10 Kirkcaldy:

11 "Nobody comes in and says 'this is your role for the
12 investigation', I was just helping with initial
13 oversight."

14 And then paragraph 34, you talk about arriving at
15 the police station, Robson was in charge, he was the
16 weekend SIO, and you say:

17 "He was my point of contact throughout the day,
18 however I know as the day progressed CID and uniform
19 attended who I suspected would've taken overall
20 control."

21 A. Ultimately, what I'm trying to say there is both CID and
22 uniform are involved in this response and ultimately
23 I believe -- my belief is that the CID would then, as
24 the day progressed, would take overall control of this
25 investigation.

Transcript of the Sheku Bayoh Inquiry

- 1 Q. So you were Detective Sergeant at Levenmouth CID?
- 2 A. That's correct.
- 3 Q. So when you say, "CID would have taken overall control",
- 4 who were you thinking of? You were in the CID.
- 5 A. CID as in for Police Scotland effectively, you know.
- 6 Q. And who would have had that responsibility?
- 7 A. Well, that would then go to the senior investigating
- 8 officer, which would have initially been Colin, but then
- 9 at some point, I assume Pat Campbell was then --
- 10 Superintendent Campbell has then taken control.
- 11 Q. So the initial SIO is Robson, but then at some point
- 12 maybe someone more senior like Pat Campbell would have
- 13 taken on the role?
- 14 A. That's how that would work, yes.
- 15 Q. And you talk about "uniform attended". We saw in one of
- 16 your daybooks, the sheet of paper with different
- 17 officers' names on it and you told us you had asked them
- 18 all to give their details. Is that the -- were they
- 19 uniform officers?
- 20 A. No, they were detectives from different areas.
- 21 Q. Now, in your daybook, you said those were -- from
- 22 different areas.
- 23 A. Yes.
- 24 Q. When it says there "uniform attended", are you thinking
- 25 of someone else?

Transcript of the Sheku Bayoh Inquiry

1 A. I'm just thinking generally there were uniformed
2 officers, who were involved in this police
3 investigation, involved in locus protection, involved in
4 a variety of different jobs, so it was joint effectively
5 between both CID and uniform response.

6 Q. And you were part of that mix of officers from different
7 areas carrying out the investigation on 3 May?

8 A. Yes.

9 Q. So was it clear to you on the morning of 3 May who was
10 in overall control, other than you obviously told us
11 about DI Robson, but were you aware of the others who
12 were involved in the morning?

13 A. No, I wasn't. I didn't take any part in that at all.

14 Q. And as the day progressed, was it clear to you who was
15 in overall control of the situation?

16 A. Well, it was clear that senior management had come out.
17 Now, although I had very limited contact with them that
18 day, I know that Colin would have been reporting in to
19 that management team. So, for me, the management team,
20 once they arrived, effectively then they're in control
21 from that point, from my point of view.

22 Q. Right. I want to ask you about the briefing at 8.20,
23 that DC Parker has noted the briefing in his notebook as
24 having taken place at 8.20. This is the one where
25 I asked you was it you or DI Robson. And I'm

Transcript of the Sheku Bayoh Inquiry

1 interested, if you think back now, what were you told
2 about the circumstances of the incident at Hayfield Road
3 at that time in the morning?

4 A. I couldn't say for certain what I was told at that
5 point. I've got some notes in my book, which is at the
6 start of my day, so my expectation is that that's the
7 type of information that I got from that briefing at
8 that point.

9 Q. Do you want to have a look -- feel free to have a look
10 at your hard copies of your daybook, because I'm
11 interested in whether at that time in the morning, you
12 had -- anyone had shared information with you about
13 calls having been received from members of the public?

14 A. So -- sorry, could you repeat that?

15 Q. I'm interested in any information that you were given at
16 or around 8.20 in the morning, or early in the morning
17 on the Sunday 3 May, what information, if any, had you
18 been given about calls had been received from members of
19 the public? We have heard evidence that there were 999
20 calls and calls from the public talking about a black
21 male near that area in Kirkcaldy with a knife. I'm just
22 wondering if you had information about that?

23 A. Well, looking at my daybook there, I've got here at
24 0825:

25 "All calls to police. Request for download."

Transcript of the Sheku Bayoh Inquiry

1 I've got "CC - 743, linked call card", so these are
2 things that I have scribbled down.

3 Q. I would like to see on the screen the page that you're
4 referring to.

5 A. Okay.

6 Q. So does it have a number at the top of that? I know you
7 have taken it out of the --

8 A. It is 01066, so it's the first page of my daybook.

9 Q. The first page. Let's go back to that first page and
10 which part are you reading from? Do you see on the
11 screen, can you point to the area? So you're pointing
12 to the left-hand side, that's fine, and that's
13 0825 hours. Are these notes that you took at that time?

14 A. That's notes I will have been writing down at that
15 point.

16 Q. And that says, "All calls to police"?

17 A. Yes.

18 Q. And what does it say underneath there?

19 A. It looks like "Scott request for download".

20 Q. What does that mean?

21 A. I don't know.

22 Q. This is your handwriting though?

23 A. Yes, it is, yes.

24 Q. Thinking back now --

25 A. Potentially requesting downloads of the calls.

Transcript of the Sheku Bayoh Inquiry

- 1 Q. Oh, right.
- 2 A. Potentially for -- so we could hear them. It could be
3 for that.
- 4 Q. So you hadn't heard those calls but you were made aware
5 that there had been calls?
- 6 A. Yes.
- 7 Q. And were you aware that that was from members of the
8 public that morning?
- 9 A. Yes.
- 10 Q. And what were you aware of, at that time, in terms of
11 the actions or behaviour of Mr Bayoh?
- 12 A. I would have read the call cards or reviewed the call
13 cards that have come in to try and pick up information
14 from those call cards.
- 15 Q. When would you have done that?
- 16 A. Roundabout this time to try and information gather and
17 try and establish, you know, what we have actually got
18 here, what's happened.
- 19 Q. And was that something you would have done before the
20 8.20 or 8.25 that we see noted here?
- 21 A. It would have been done just around that, because it's
22 natural for -- it's one of the first things you would do
23 when you're trying to get an update on an incident, like
24 where is the call card, what's the circumstances and
25 what's there.

Transcript of the Sheku Bayoh Inquiry

- 1 Q. So you had access to that?
- 2 A. Yes, it would either have been on a STORM call card, if
3 I was logged on, or if there was a printed version,
4 I don't know.
- 5 Q. When you arrived at Kirkcaldy, did you have access to
6 a computer to allow you to log on?
- 7 A. Yes, I did. I logged on at one of the terminals that
8 was in at the station.
- 9 Q. In the room that you have talked about?
- 10 A. Yes.
- 11 Q. So any information that was on the call cards prior to
12 8.25, would you have had access to that?
- 13 A. Yes.
- 14 Q. On that basis, you would have known that calls were
15 coming in about a man with a knife?
- 16 A. Yes.
- 17 Q. And were you aware of the actions of the police in
18 response at Hayfield Road?
- 19 A. I'm not aware of what individual officers done or how
20 that progressed, but I have clearly been given an
21 update, because I have written something in my book
22 which suggests there has been contact with the police.
- 23 Q. And what was it in your book that you have noted contact
24 with the police? Where do we see that?
- 25 A. That's where I have -- it's got "Short - Paton ..." and

Transcript of the Sheku Bayoh Inquiry

1 then --

2 Q. Sorry, could you give us a moment just to -- right. Oh,
3 right, so left-hand side.

4 A. Yes.

5 Q. Three-quarters of the way down:

6 "Short/Paton/Walker - went for Nicole."

7 A. That's correct.

8 Q. And:

9 "Tomlinson - baton to head."

10 A. Yes.

11 Q. So is that your notes about the circumstances?

12 A. That's notes I have written down there. That's
13 obviously what I'm picking out and have written down as
14 I have ...

15 Q. And that's the name of three of the officers that we
16 have heard were at the scene at Hayfield Road?

17 A. Yes.

18 Q. And Tomlinson as well, so four?

19 A. Yes.

20 Q. Now, in your PIRC statement, 136, and we don't need to
21 go to that straightaway, but at page 2, you say:

22 "I was informed that during contact with the police
23 the male was unresponsive."

24 So again, at that time in the morning, was part of
25 the briefing information that by then the male had

Transcript of the Sheku Bayoh Inquiry

- 1 become unresponsive at the scene?
- 2 A. That's correct.
- 3 Q. You knew about that at that time?
- 4 A. Yes.
- 5 Q. And was there any suggestion at that time that police
- 6 were looking for two guys, two men?
- 7 A. No.
- 8 Q. Was there discussion or a suggestion at that time that
- 9 you were looking for witness statements from any men?
- 10 A. I don't remember a specific discussion about witness
- 11 statements at that point, no.
- 12 Q. So can I say that on the left-hand side, the notes you
- 13 have referred to, are those the notes that you would
- 14 have prepared roughly around the time of the briefing?
- 15 A. Yes, that would certainly fall into that order.
- 16 Q. If you had been delivering the briefing at that time of
- 17 day, would you have expected to see more notes in your
- 18 daybook?
- 19 A. It varies. Sometimes you record more, sometimes you
- 20 don't. That's all I have recorded on that day. Looking
- 21 at that, that's information I'm receiving and writing
- 22 down, which would probably tend to suggest that I was
- 23 being briefed. However, I don't want to say that for
- 24 certain because I don't know that. I may have picked
- 25 that up by telephone and then subsequently briefed those

Transcript of the Sheku Bayoh Inquiry

- 1 officers.
- 2 Q. Okay, thank you. And then we see on the left-hand side
- 3 "0904", does that mean life pronounced extinct?
- 4 A. That's correct, yes.
- 5 Q. So is that the time that you noted that Mr Bayoh had
- 6 been pronounced deceased?
- 7 A. That will either be the time that I was told, or that
- 8 will be the time that he has been pronounced life
- 9 extinct. I don't know for certain which it is.
- 10 Q. Thank you. So after this briefing at 20 past or 25 past
- 11 8 -- how long do briefings normally last?
- 12 A. It depends what you're briefing about.
- 13 Q. Do you remember how long this one lasted?
- 14 A. No.
- 15 Q. So after this briefing, tell us what tasks you carried
- 16 out?
- 17 A. It's from there you're trying to build up a picture of
- 18 what's happened, you know. We need to try and identify
- 19 witnesses, who has called the police, who has reported
- 20 things. We need to try and identify -- well, most
- 21 importantly, who Mr Bayoh was. You know, we didn't know
- 22 that at that stage, so that was the priority at that
- 23 stage for me.
- 24 Q. And what tasks do you remember allocating to any of the
- 25 officers who were under your management?

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1 A. Roundabout this time there was the linked call card that
2 had come in where Mr Bayoh's partner had called in
3 reporting concerns for him. So what I do remember was
4 thinking, "This could be linked and this needs to be
5 actioned quickly."

6 Q. And on the right-hand side of this page, do we see the
7 name at the top is "Collette Bell"?

8 A. That's correct, yes.

9 Q. We have heard that she is the partner -- was the partner
10 of Mr Bayoh. Tell us what you have written there?

11 A. I've got "Collette Bell" at the top and then I've got
12 a line to -- it looks like "Girlfriend", "Last seen ..."
13 and then there are some points that are redacted and
14 then I've got "Unsure time" underscored and then "Zahid"
15 underscored, and then it looks like "Zahid", which I
16 think is just the way I have written it on the day. And
17 then in brackets "Spoke to him -" and it looks like
18 "Racist", close brackets. And then underneath, "At
19 boxing, back door open, house trashed", I think that is.

20 Then it says, "Last", then a gap, "Light blue
21 jeans/navy blue hoody top".

22 Q. So the notes that we see on the top right-hand side of
23 this first page of your daybook, tell us about when you
24 made those notes?

25 A. I'm almost certain those are notes that I'm getting when

Transcript of the Sheku Bayoh Inquiry

- 1 I'm on the phone to either it will be Wayne or Andy.
- 2 Q. What time was this?
- 3 A. I'm sorry, I don't have a time recorded in that.
- 4 Q. Where were Wayne Parker and Andy Mitchell when they gave
5 you this information?
- 6 A. I believe they would have been out at the home address.
- 7 Q. And when you say "the home address", would that be
8 the home address of Collette Bell?
- 9 A. That's correct, yes.
- 10 Q. Now, we have heard other evidence that Collette Bell
11 phoned the police that morning at 8.36 hours and we have
12 heard the audio of that call and she asked for
13 the police to come. And then we have also heard
14 evidence from DC Mitchell and DC Parker that they then
15 were tasked by you to go to the house of Collette Bell.
16 Would that be correct?
- 17 A. Yes.
- 18 Q. So this would be some time after 8.36 that you made
19 these notes?
- 20 A. Yes.
- 21 Q. And we have also heard from Parker and Mitchell in
22 evidence that there was the call to you back in
23 Kirkcaldy Police Office after they had met up with
24 Collette Bell, which would tie in with what you have
25 just said.

Transcript of the Sheku Bayoh Inquiry

1 A. Yes.

2 Q. And can I ask you about this reference here to
3 "Zahid Saeed, speak to him", and it says "Racist", and
4 I know you were asked about this in your Inquiry
5 statement. Can you explain what you mean by that?

6 A. No. I don't know. I don't know what that means.
7 You know, I have looked at that and obviously spoke
8 about it through the statement, but I don't know if that
9 was -- if I probed it any further or asked what was
10 meant by that or I don't know if that was then included
11 in any subsequent interviews we had with the witnesses,
12 whether it has been covered by them. I don't know what
13 is meant by that.

14 Q. We will come back to that in a moment -- maybe not
15 a moment, but at some point.

16 Now, the other thing that DC Mitchell mentioned to
17 us about when he arrived at Kirkcaldy, was he described
18 things as being in a "bit of a muddle" when they
19 arrived. Would you agree with that description, that
20 things were in a bit of a muddle?

21 A. In relation to ...?

22 Q. The scene at Kirkcaldy when he arrived at after 8 in the
23 morning, that it was a bit of a muddle.

24 A. I wouldn't describe it as a muddle. What I would
25 describe it as is early days in any significant enquiry

Transcript of the Sheku Bayoh Inquiry

1 Can we go back to your Inquiry statement, please,
2 and I would like to ask you about paragraph 50. And you
3 have said here:

4 "I wasn't aware a firearms post-incident procedures
5 SOP was used at Kirkcaldy."

6 That is standard operating procedure.

7 "I now have a leaflet for post-incident management
8 in deaths in custody cases that is good. I've got it in
9 my handy books. It gives advice, who to call,
10 implementation, deploying a post-incident manager,
11 conferring reminder and establishing facts in those
12 circumstances. If that happened today I would know
13 where to look and what is to be done. Should there be
14 a death in custody or a serious injury in custody this
15 is what to do. I don't know when it was published and
16 if it was available in May 2015. I've never needed to
17 adapt an SOP or go to something similar if there aren't
18 procedures that fit."

19 So this is something that you have available now?

20 A. Yes.

21 Q. And you're finding that extremely helpful by the sounds
22 of your statement?

23 A. Yes.

24 Q. And you have said that now you have advice available to
25 you in your handy books. What are handy books?

Transcript of the Sheku Bayoh Inquiry

1 A. Basically, when I -- when things get sent out, I look at
2 them and review them, and I think, "That will be great
3 for me", if I'm night shift and I'm getting asked about
4 a situation. So I've printed it off and I've got a big
5 file of things that I would go to that I would quickly
6 look at as a reference to help me in an incident.

7 Q. Right. So you've got that now. Did you have something
8 like that in 2015?

9 A. No, I didn't.

10 Q. No. And so you have said that it gives you advice
11 about:

12 "... who to call, implementation, deploying
13 a post-incident manager, conferring reminder and
14 establishing facts in those circumstances."

15 Can you just explain to us in a little bit more
16 detail what those things are that you have listed? This
17 is the advice that you get now from your -- the
18 information you have.

19 A. Okay, so that would be for if there's a death or serious
20 injury in relation to someone that's been in police
21 custody. So it's effectively -- it's actually pretty
22 straightforward. It's an A4 bit of paper, two-sided,
23 and it's about in relation to contacting the --
24 effectively the Superintendent of Professional
25 Standards, who would then raise that to executive level,

Transcript of the Sheku Bayoh Inquiry

1 I believe, of Police Scotland, who make the decision
2 roundabout deployment of a post-incident manager and
3 having the staff involved in any incident in relation to
4 the death, so -- I think they're called key police
5 witnesses, they would be taken to a particular location
6 and effectively given a form of words, which is
7 a conferring reminder I have called it here, I took that
8 from the handy document that I had. And yes,
9 effectively, you will go through that process.

10 Q. And this leaflet, the A4 sheet, double-sided, that you
11 have now, that's a helpful checklist of things that you
12 should be doing?

13 A. Yes.

14 Q. And you have mentioned that one of the things is --
15 involved the Superintendent from the Professional
16 Standards Department?

17 A. Yes, yes.

18 Q. And, in 2015, you have said you didn't have anything
19 like that. How did you know what to do?

20 A. On this incident?

21 Q. In 2015, in May 2015?

22 A. To be fair, those decisions would have been made by, for
23 me, inspecting ranks and above. So at that point, I was
24 the sergeant, so I'm involved in initial responses.
25 But for, you know, contacting the on-duty Superintendent

Transcript of the Sheku Bayoh Inquiry

1 from Professional Standards, and things like that, that
2 would have been done by potentially DI Robson or one of
3 the other senior managers.

4 Q. So these jobs here, who to call, deploying
5 a post-incident manager, conferring reminder, these
6 would have been the responsibility of DI Robson or
7 somebody more senior to DI Robson?

8 A. Yes, if the -- yes. So if this was to happen -- so if
9 something was to happen tomorrow, that would be of that
10 rank that would take control of that.

11 Q. And would that be because Robson was a DI, or because
12 Robson was a duty SIO?

13 A. Well, he was the senior investigating officer at that
14 time, so he alongside whoever else was involved would
15 have considered this at this stage.

16 Q. Right. And so, today, you have told us you are now an
17 inspector?

18 A. Yes.

19 Q. And you've got this leaflet in your handy books?

20 A. Yes.

21 Q. Are these the things that if you were faced with a death
22 in custody, are these things that you would do because
23 of your rank as inspector or because you would be the
24 SIO?

25 A. That's what -- the SIO is the rank of inspector, so that

Transcript of the Sheku Bayoh Inquiry

1 is effectively what I've got. So hopefully, it never
2 happens, but that's there that if it did happen, at
3 least I know, "Right, I've got it", you're not going
4 onto computers to try and find it, it's there.

5 Q. You're ready to make this -- take the steps --

6 A. Yes.

7 Q. -- that have to be made?

8 A. Yes.

9 Q. Right. But when you were Detective Sergeant on
10 3 May 2015, that was not something that you had to do as
11 part of your role and not something you had, the leaflet
12 you didn't have?

13 A. That wasn't anything I was involved in on that day.

14 Q. Right. And you said in paragraph 50 that you weren't
15 aware of firearms post-incident procedures SOP, you
16 weren't aware that that was used at Kirkcaldy?

17 A. No.

18 Q. Did you have a clear understanding at that time what
19 procedures were in place on 3 May for investigating the
20 death of this man? You're talking here about firearms
21 post-incident procedures, so in terms of post-incident
22 procedures, on 3 May 2015, a man has died --

23 A. Yes.

24 Q. -- in Hayfield Road, there's been contact with
25 the police.

Transcript of the Sheku Bayoh Inquiry

1 A. Yes.

2 Q. Did you have a clear view, at that time, a clear
3 understanding of what procedures would be adopted on
4 that day?

5 A. The truth is no, because I was responding to the death
6 like you would for any person and almost go into "Let's
7 go and get this done". But then I didn't have a good
8 awareness, to be honest, of the PIRC at the time, so
9 when I heard the PIRC were going to be getting involved,
10 I feel like I should have known that but I didn't know
11 that at the time, and you start saying, "PIRC, all
12 right, okay". So it might of been on that day when that
13 first was introduced, I just think I said, "Right, okay,
14 so there's -- this is not just Graeme Dursley helping to
15 try and investigate this, there's going to be different
16 aspects to this."

17 Q. I think in paragraph 36 of your statement, if we can
18 just go back to that, you do say in your statement to
19 the Chair -- if we can go back to 36 -- that:

20 "To be honest, I knew very little about the PIRC.
21 I remember it getting mentioned to me PIRC were going to
22 be involved. I remember thinking 'who were PIRC?'.
23 I should've known that but the reality is I didn't."

24 And we will no doubt hear more about PIRC, but
25 I think they had come into being, if you like, on

Transcript of the Sheku Bayoh Inquiry

1 1 April 2013.

2 A. That's correct.

3 Q. But you didn't have a clear picture of their role?

4 A. I didn't have a good working knowledge of what their
5 responsibilities were in general prior to this incident.

6 Q. Would it have helped you -- looking back now, would it
7 have helped you to have a clearer understanding of the
8 procedures that were to be adopted and who the -- people
9 like PIRC, who the people were that were going to be
10 involved?

11 A. Yes.

12 Q. And how would that have helped -- made a difference to
13 your job?

14 A. I think it just would have helped on the day knowing --
15 well, let's say right at the start of the day, I'm
16 thinking, "Right, let's go and -- let's get these things
17 done", but then PIRC is mentioned and I'm starting to
18 think, "When do they come in? What do they do? What
19 are their responsibilities?" So it's just about
20 confusion where for me now PIRC would be contacted and
21 they would be involved straight off and you would be
22 looking to either work jointly or for them to take full
23 control straight from the off.

24 Q. What's changed now for you in terms of understanding who
25 PIRC are and understanding what their involvement would

Transcript of the Sheku Bayoh Inquiry

- 1 be in an incident?
- 2 A. I have had an input from the PIRC at an investigators
3 course I was on, where they come in and explain things
4 and there was also -- the document that I mentioned
5 there in relation to deploying post-incident managers
6 makes reference to the PIRC as well, so that did help.
- 7 Q. And that's obviously on an investigators course?
- 8 A. Yes.
- 9 Q. Are you aware from your own experience when you were
10 a detective sergeant, what information was available to
11 sergeants or what information is available to sergeants
12 now about the role of PIRC?
- 13 A. People that go on the detective sergeants course, I'm
14 almost certain will get an input from the PIRC as well,
15 so that will be included in the training and I would be
16 really surprised if it's not included at all training.
- 17 Q. For constables as well?
- 18 A. For constables, I expect there would be an input for
19 constables for awareness of the PIRC as well.
- 20 Q. So there's more awareness generally --
- 21 A. Yes.
- 22 Q. -- about PIRC now?
- 23 A. Yes.
- 24 Q. In 2015, in May of 2015, whose responsibility would it
25 have been to share information with you, both about PIRC

Transcript of the Sheku Bayoh Inquiry

- 1 but also about post-incident procedures, and to bring
2 you up to speed, if you like?
- 3 A. So you're speaking in general or on that day? Are you
4 speaking --
- 5 Q. I'm speaking about 3 May.
- 6 A. On that day?
- 7 Q. Yes.
- 8 A. It was DI Robson that informed me and told me that the
9 PIRC were going to be involved.
- 10 Q. And in terms of bringing you up to speed on
11 post-incident procedures and how things were going to be
12 managed, who would have been responsible for bringing
13 you up to speed on that information?
- 14 A. I didn't get generally brought up to speed in relation
15 to the post-incident procedures and the officers that
16 were involved in the contact.
- 17 Q. Sorry, did you say did or didn't?
- 18 A. No, I didn't, because I wasn't -- that was not an area
19 that I was looking at that day.
- 20 Q. Looking back now, would it have helped you to have had
21 a briefing about what was going on generally in terms of
22 managing the incident?
- 23 A. Managing the staff, the police officers, you mean?
- 24 Q. Yes, managing the staff, managing the investigation.
- 25 A. Yes, it would be good to get that, but, you know, I am

Transcript of the Sheku Bayoh Inquiry

1 getting updates as the day goes, so there is information
2 getting shared with me and it's obviously very
3 fast-paced throughout the day as well.

4 Q. In terms of post-incident procedures, post-incident
5 management, what briefings were given to you that day?

6 A. I never spoke at all about the post-incident procedures
7 or the management of that staff. I don't remember being
8 involved in any of those discussions or decisions.

9 Q. Right. We have talked about you identifying priority
10 actions and I'm interested to know how you went about
11 identifying priority actions for that day.

12 A. Try and identify witnesses, try and identify who
13 Mr Bayoh was, that was the priority, that was the most
14 important thing right at the start was for
15 identification of Mr Bayoh. Identifying who has seen
16 what, who could tell us what's taken place, what may
17 have happened at that scene, what's happened beforehand
18 and what's happened afterwards. So it's trying to
19 capture as much information as you can to try and fill
20 in the gaps or fill in the timeline.

21 Q. So in terms of trying to prioritise individual tasks for
22 the officers who you were managing, how did you go about
23 prioritising individual tasks for individual officers?

24 A. I remember we had a set number, you know, of actions we
25 were to get. We were getting staff I've never met

Transcript of the Sheku Bayoh Inquiry

1 before, so effectively it was, "Right, we need to get
2 that, that, that and that done", and I met these
3 officers who I had never met before and it was like,
4 "Right, this is what we need to get done" -- and that
5 was later in the day actually, sorry, that we put those
6 officers out. But the priority action right at the
7 start was to go and speak to Collette, because that was
8 the information -- the potential linked call card.

9 Q. Was that the number one priority for you?

10 A. At that point, because that may then have linked and
11 helped identify who Mr Bayoh was.

12 Q. And you have described there later in the day having
13 a set number of actions and you were gesturing. It
14 looked like you were maybe looking at a document. Did
15 you have a list of actions?

16 A. I'm actually just wanting to flick through my book here,
17 because I don't know if I've got an actual set list.

18 Q. Please do.

19 A. I've got written at various points there, I've got
20 "Actions", which is written on 01067, "Actions".

21 Q. Let's get that up on the screen then. So 67. Here we
22 are. So on the right-hand side, there we see the word
23 "Actions"?

24 A. Yes, and then --

25 Q. What do we see written there then?

Transcript of the Sheku Bayoh Inquiry

1 A. You've got "6 DCs - Lothians" and then "2 East-MIT". So
2 that's clearly me at that point saying, "Right, I've got
3 actions, what staff am I getting to try and carry out
4 these actions?" And that's the staff I was due to be
5 getting.

6 Q. And where do we see the actual actions?

7 A. I don't think they're listed, but in the next page
8 you've got --

9 Q. So that would be 67.

10 A. 01068.

11 Q. Right.

12 A. I've got on the right-hand side -- I have got --

13 Q. You've got "Actions" towards the bottom there?

14 A. I've got "Actions" almost in the middle of the page:

15 "Actions -- Zahid Saeed

16 -- Martyn Dick."

17 And above that I've got "Locus" and then an arrow
18 with a number of different things written there as well.

19 Q. Right. And so where it says "Locus", tell us what you
20 have written there?

21 A. So I've got "Locus" with an arrow and it says --

22 Q. We can see there's a redacted address there for
23 Martyn Dick?

24 A. A redacted address at the top. So that's my mind,
25 I think, just putting down, "Right, so what have we got,

Transcript of the Sheku Bayoh Inquiry

1 where has he been as a potential locus for the timeline
2 of these events?" So, at that point, I must be aware
3 that he has been at Mr Dick and Ms MacLeod's address.
4 There is the area where Mr Bayoh was -- come into
5 contact with the police officers.

6 Q. Does that say, "Body -- Locus"?

7 A. Yes, that's right. So that says, "Body -- Locus" and
8 then the street -- I don't know what that word is next
9 to it unfortunately and then you've got "H/A".

10 Q. Could it be "Hendry"?

11 A. Henry, could be a street. It's the area of Hendry Road,
12 yes --

13 Q. We've heard that's an area near Hendry Road, Hayfield
14 Road.

15 A. Yes, next street.

16 Q. And just to go back for a moment, as I understand the
17 situation, we have heard evidence that his body was in
18 the Victoria Hospital.

19 A. That's correct.

20 Q. So that was another area.

21 A. Yes.

22 Q. And then the street, and then what does it say under
23 that?

24 A. "Street" and then underneath "Street", it says "H/A",
25 which is shorthand for home address.

Transcript of the Sheku Bayoh Inquiry

1 Q. And then we've got the address for Collette Bell.

2 A. Yes, and then under that "Zahid Saeed".

3 Q. And we've got his home address redacted.

4 A. Yes.

5 Q. And then "Actions", the two names.

6 A. Yes.

7 Q. When did you write this list?

8 A. I've got there 11.20 hours for a briefing MIT on the

9 left-hand side of the page, so I think that would have

10 been after or around about that time.

11 Q. Let me just see what you're referring to. I can see

12 "11.40" on the left-hand side. I can see "10.45".

13 A. 10.45, and if they scroll up that page, so it's the

14 bottom left-hand corner.

15 Q. Oh, right. So it's just at the bottom of the screen.

16 A. It's just off camera.

17 Q. So if we can move that down, please.

18 A. You've got "11.20 hrs Brief MIT".

19 Q. And what's that a reference to?

20 A. That is when I have went and spoken to the officers that

21 had come from the other area to give them actions.

22 Q. Do you remember what you said to the officers from MIT?

23 A. I can't give you the fine detail of any briefing that

24 was given. It would have been general circumstances of

25 what we've got and that we're looking to go and try and

Transcript of the Sheku Bayoh Inquiry

- 1 information gather and speak to these witnesses.
- 2 Q. And then on the right-hand side, we see the different
3 items that you have listed?
- 4 A. Yes.
- 5 Q. When you mentioned earlier that you had a list of
6 priority actions, is this the list that you had in your
7 mind or was it something else?
- 8 A. I wouldnae say that -- a list of actions is 1 to 10 with
9 clear defined actions. Now, this for me is more
10 a generalisation of things that I'm looking to get done,
11 but it's not a clear list. But I can see from my
12 writing there, action, definitely we need to go and
13 speak to Zahid, we need to go and speak to Mr Dick, we
14 need to go and speak to -- did I say Mr Saeed? Yes.
- 15 Q. Zahid Saeed and Martyn Dick are the two names.
- 16 A. Yes, those were clearly key.
- 17 Q. So you're saying what's here, it's not a clear list and
18 you talked about envisaging a list, numbered list. When
19 you mentioned earlier there were a set number of actions
20 that needed to get done and you mentioned later in the
21 day, is this -- what we see here on this daybook, is
22 that the list that you were thinking about when you told
23 us that?
- 24 A. No.
- 25 Q. Was there another list?

Transcript of the Sheku Bayoh Inquiry

1 A. No. I don't have a list of, you know, defined actions
2 that I gave out to people or anything like that. I will
3 have been giving actions out throughout the course of
4 the day. They're general notes of the type of actions
5 that I have given, but I don't have a defined list of
6 what I was given to do.

7 Q. So it's not that we should go and look for a list that
8 you had prepared?

9 A. No, no, I just wanted to check in those notes there
10 whether it was more a defined list, but it's not.

11 Q. Okay. So what we see here on this screen at the moment,
12 68, is the priority actions, if you like, that you had
13 identified. You have given the locus and you have given
14 a number of -- there's five there and then there's two
15 names, Zahid Saeed and Martyn Dick, and they were also
16 actions -- we have heard that that may have been two
17 people you wanted to get witness statements from, is
18 that correct?

19 A. Yes.

20 Q. Thanks. Now, on paragraph 33 of your Inquiry statement,
21 if we can go back to that just for a moment, we have
22 already looked at this briefly when we were looking at
23 your role that day. You say here:

24 "... I was just helping with initial oversight."

25 And I'm interested in what you mean by "initial

Transcript of the Sheku Bayoh Inquiry

- 1 oversight". What does that mean?
- 2 A. I was helping to try and identify what needed done to
3 try and progress the investigation.
- 4 Q. And then at paragraph 16 of your statement, you say:
- 5 "I realised from that day that this would be subject
6 to review. We certainly were looking at the incident as
7 a death in custody or following contact. When we were
8 speaking to these witnesses we were trying to understand
9 how had he died, that's what everyone would want to
10 know."
- 11 Could you give us a little bit more information
12 about this paragraph. What do you mean you realised
13 from that day that this would be subject to review?
- 14 A. I knew right from the start because of the police
15 contact that, you know, this would be subject to a full
16 investigation to try and establish exactly what's taken
17 place.
- 18 Q. When you say "review" is that what you mean by a full
19 investigation?
- 20 A. Yes, it would be effectively reviewing the actions of
21 the police, or what we've got here, an inquiry.
- 22 Q. You wouldn't have envisaged a public inquiry at that
23 stage, so who do you think would have been doing the
24 review? Perhaps we're at cross-purposes here.
- 25 A. Well, at that time --

Transcript of the Sheku Bayoh Inquiry

- 1 Q. Do you see any difference between "investigation" and
2 "review"?
- 3 A. So the investigation for me is going out and let's do
4 this. A review is someone come along to say, "Right,
5 who done what, what and what, and was that the right
6 course of action?"
- 7 Q. And who would that someone be?
- 8 A. Well, the PIRC potentially.
- 9 Q. But you didn't know much about them at that time?
- 10 A. Not at that time, no.
- 11 Q. Anyone else that you think would have been carrying out
12 a review?
- 13 A. At that time, I did actually consider this may go to
14 a public inquiry, because I was aware of
15 a public inquiry previously, so that was in the back of
16 my head.
- 17 Q. Right:
- 18 "We certainly were looking at the incident as
19 a death in custody or following contact."
20 Explain why that's of significance -- was of
21 significance to you at that time?
- 22 A. Because Mr Bayoh was in police custody or effectively
23 with them. I don't know at what point they got to in
24 that arrest process, but it's really important because
25 we were there with Mr Bayoh and it's clearly -- clearly

Transcript of the Sheku Bayoh Inquiry

1 really important that we deal with that effectively.

2 Q. And what makes the involvement of the police so
3 important?

4 A. Because we're a public service and we're there for the
5 public and if there is any death when it involves the
6 police, it is clearly really significant.

7 Q. Significant to the public?

8 A. For everyone, yes.

9 Q. And to the officers?

10 A. Yes.

11 Q. And to the police service?

12 A. Yes.

13 Q. And then you say:

14 "When we were speaking to these witnesses we were
15 trying to understand how had he died, that's what
16 everyone would want to know."

17 And was that your own impression or was that
18 something you were aware that people wanted to know?

19 A. Straight from the off, that's what I would want to know
20 and that's what personally I would want to know, but
21 I know that's what everybody would want to know, because
22 I think it's really important to know exactly how he
23 died.

24 Q. And why is that important to everyone?

25 A. Because the circumstances need to be known in full to

Transcript of the Sheku Bayoh Inquiry

1 know exactly what's taken place on that day.

2 Q. Thank you. So when you talked about your role helping
3 with initial oversight, were you primarily focusing on
4 how did Mr Bayoh die?

5 A. I was focusing on trying to get those initial actions
6 done that would try and capture the evidence that would
7 assist in identifying how he died.

8 Q. Thank you. And then in paragraph 37 of your Inquiry
9 statement, you talk about needing to speak to people,
10 37:

11 "... needing to speak to people and get information.
12 We were trying to get PIRC to deal with things but we
13 needed to see people immediately. It's a hard position
14 to be in."

15 Explain what you meant by that?

16 A. I remember on the day when it was mentioned about PIRC
17 and I'm thinking, "Right, okay, someone else is going to
18 come and try and take over", and I remember saying to
19 myself, "That's fine, but where are they, when are they
20 going to be here, because we've got people that need
21 information?"

22 Q. Where were PIRC?

23 A. I don't know where they're based or where they come from
24 or -- but I remember thinking on the day, you know --
25 it's great me saying this, but I remember thinking,

Transcript of the Sheku Bayoh Inquiry

- 1 you know, "Where are they? Let's get them here."
- 2 I don't know when they turned up, because I never had
- 3 any involvement with them, but it did feel like there
- 4 was a period of time until they effectively arrived.
- 5 Q. And was that of some concern to you? You have mentioned
- 6 people need information.
- 7 A. Yes.
- 8 Q. So when you say, "People need information", what would
- 9 you have wanted for yourself and for the officers who
- 10 you were managing?
- 11 A. I would have wanted to be out with family liaison
- 12 officers and giving updates to Collette and Mr Bayoh's
- 13 family sooner than effectively we did.
- 14 Q. Right. How soon are you talking about?
- 15 A. There's a fine balance between doing things quickly, but
- 16 doing things accurately, so it's getting that fine
- 17 balance. But, for me, things were delayed on that day,
- 18 but I think with the best -- because of the best
- 19 intentions for deploying liaison officers, who are
- 20 separate and things like that, but my feeling is now is
- 21 we could have done that sooner.
- 22 Q. When you say "sooner", what do you mean, how soon?
- 23 A. Once we're clear or clearer on what had actually
- 24 happened at that scene and the identification of
- 25 Mr Bayoh and trying to get information to them, I felt

Transcript of the Sheku Bayoh Inquiry

1 like that there were delays because we were
2 effectively -- the PIRC were involved.

3 Q. And when do you think you would have had sufficient
4 information to have provided the family of Mr Bayoh and
5 his partner with information about his death? When do
6 you feel you would have been sufficiently in possession
7 of enough information to do that?

8 A. That's really hard to say because it's -- you have
9 obviously got to decide what you're going to tell them
10 and when you're going to tell them that. Now, at that
11 time, that wasn't a decision for me to make, but you
12 want to be able to give people information as soon as
13 you can. So that's a really hard question to say
14 exactly the right time to do it, but I can understand
15 how people would want to know sooner, because I would.

16 Q. Well, we will come on to the death messages later and we
17 will maybe look at this in a little bit more detail, but
18 what do you see as the benefits if the police are able
19 to give information to families at an early stage?

20 A. It lets them know what's happened. They're going to
21 have hundreds of questions and they just want -- they
22 want to know what's happened to their family member.
23 And the benefits of that is it means they're getting
24 kept up-to-date and they're getting information.

25 Q. What impact does sharing information with families have?

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1 What positive impacts does it have in terms of the
2 impact on the police?

3 A. Well, effectively, if you're sharing information, you're
4 keeping them involved in what's happening and you're
5 keeping them up-to-date, and you try and get
6 a relationship between the two parties effectively.

7 Q. How can that help the police?

8 A. It helps the police try and progress what's happened in
9 relation to the death. It would help us, yes.

10 Q. Thank you. Can we look, please, at paragraph 39. You
11 say:

12 "I kept an open mind about the investigation.
13 I don't know what caused the death of Mr Bayoh.
14 I wanted to speak to people to find out as much
15 information as I could to understand what happened. It
16 is a hypothesis that criminal police actions may have
17 caused the death, or something that he's taken, is it
18 a medical matter, or is there something that happened in
19 the lead up to it that caused it. In the absence of
20 specific information we don't know what caused it."

21 Explain what you mean here.

22 A. I'm -- when I've got this -- not when I've got it, when
23 this incident is first getting reported, I'm thinking,
24 "Right, what are they -- well, the word there is
25 "hypothesis", but what could have happened, what options

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1 are there, what may have caused this? And that's
2 a number of things that when I was asked during my
3 interview what was I thinking and I was -- and those are
4 ones that I have just -- so these are ones that I was
5 thinking about when I got interviewed last year, but
6 these are things I would have been thinking about on the
7 day, because you have got to -- to be able to properly
8 react to that, you have to try and cover all these
9 bases.

10 Q. And we may hear other evidence that an SIO will have
11 various hypotheses in mind and we may also be hearing
12 that an investigation allows you to gather in
13 information to then exclude a hypothesis, but until that
14 point, everything is open.

15 A. Yes.

16 Q. Would you agree with that?

17 A. Yes, I would totally agree with that.

18 Q. I would like to turn to the visit to Collette Bell's
19 house. We have heard evidence about -- we have heard
20 evidence from Andrew Mitchell and DC Wayne Parker about
21 this and I would just like to get our bearings on the
22 timings of when this happened on 3 May.

23 I have already mentioned we have heard evidence that
24 Collette Bell phoned the police at 8.36 in the morning
25 and we have heard evidence that -- from DC Parker that

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1 he was to go to Collette Bell's house for a welfare
2 check.

3 Now, you have mentioned earlier that you thought
4 there might be a connection. Can explain to us a little
5 about this action that you told Mitchell and Parker to
6 go to Collette Bell's house and the reasons for that?

7 A. We've got the linked call card, we're thinking, "Could
8 this be linked?" Ms Bell is reporting concern for her
9 partner. So at that point, I'm saying to DC Parker and
10 Mitchell, "Let's just go up there, let's go and speak to
11 her and let's find out what information she has got,
12 what is the concerns and is this linked, can we try and
13 say that it's linked or do we think that it is
14 completely separate and not linked at all?"

15 Q. What was it that made you think this could be linked?

16 A. I don't know if I was told about the linked call card.
17 I've got "linked call card" written in one of my books,
18 but effectively --

19 Q. Do you see it on the reference there? We will have that
20 on the screen. Is that page 1?

21 A. So PS01066 which is the first page of my daybook.

22 Q. So this is -- is this at an early stage?

23 A. Yes, this is an early stage, so it's --

24 Q. We see the right-hand page has "Collette Bell" at the
25 top.

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- 1 A. Yes.
- 2 Q. Where does it say "linked"?
- 3 A. So on the left-hand page, you've got "C/C-743 - linked
4 call card".
- 5 Q. What does that mean?
- 6 A. That means that there is a call card -- now, I don't
7 know if it has been linked on STORM or not, or whether
8 that's -- whether someone has linked the two incidents
9 and thinks, "These could be the same, you had better
10 have a look at that." So I think I have written that
11 down, potentially told that there could be a linked call
12 card and I would have looked at the call card, because
13 I think that was the call card from Ms Bell.
- 14 Q. Do you remember what the factors were that made you
15 think this could be linked?
- 16 A. One of the big -- the biggest factor was the description
17 of Mr Bayoh and the fact that the person she was
18 reporting her concern for was black.
- 19 Q. Thank you. We have heard that three officers were sent
20 to Collette Bell's home: Parker, Mitchell and Clayton.
21 Do you -- can you explain to us why three officers were
22 sent?
- 23 A. No particular reason. The three of them are there at
24 this point, you know. That was a really important
25 action to go out and do.

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- 1 Q. Right. We have heard evidence that one of the
2 possibilities was to give Clayton something to do. Do
3 you agree with that, or do you think there was another
4 reason behind sending three officers?
- 5 A. I've got three detectives there right at the early time.
6 This is a fast-track action. You don't know what's
7 going to lead from that action, so if when they're up at
8 that house, something else comes in, if you've got
9 an extra body, you can then try and take care of that as
10 well.
- 11 Q. We have heard about priority actions, you have mentioned
12 fast-track actions, are they the same thing?
- 13 A. That's just a term that I use. It's an action, it's
14 a job effectively, go and do something.
- 15 Q. The fact that you have referred to it as "fast-tracked",
16 does that mean it gets done sooner than others?
- 17 A. "Fast-track" is a term that I would use for my HOLMES
18 enquiry which is -- a fast-track action is an action
19 that you need to get done quick.
- 20 Q. And you have mentioned earlier that identifying the man
21 was one of the priorities that you wanted to
22 investigate?
- 23 A. Yes.
- 24 Q. Then we have heard from Parker and Mitchell, they
25 arrived at Collette Bell's house about 9 o'clock and

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1 waited for her to arrive a short time later and that
2 when they left Kirkcaldy Police Office, they did not
3 know that Mr Bayoh had died, that the man had died.
4 Would you agree that when they left that wasn't known?

5 A. I don't know. I don't know if they knew that or not.

6 Q. Right. But you have told us already you were aware that
7 at 9.04 in the morning, he had been pronounced life
8 extinct?

9 A. Yes.

10 Q. Can I ask you to look at PIRC 137, please. I'm thinking
11 of page 2, paragraph 1. I'm looking at this thinking
12 that's probably not the right one. There might be
13 a slight error here that I want to flesh out with you.

14 A. Okay.

15 Q. So are you on page 2 and we can see -- no, I'm on the
16 wrong statement, sorry. It's 136, not 137, that I'm
17 looking for. Let's look at 136, first of all, which is
18 the one on the screen, page 2, paragraph 3, you say:

19 "Shortly after 0904 hrs, same date, I was aware that
20 life had been pronounced extinct. I was aware that now
21 deceased partner (Collette Bell) was within Kirkcaldy
22 Police Station with DC Parker and DC Mitchell."

23 Now, I think in your next statement, PIRC 137, at
24 page 2, paragraph 1:

25 "I can confirm that Collette Bell was not in

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1 Kirkcaldy Police Office just after 0904 hours. It was
2 definitely closer to 1045 when DC Wayne Parker and
3 DC~Andy Mitchell brought her back."

4 A. That's correct.

5 Q. That is the correct position, is it?

6 A. Yes, it is.

7 Q. So Collette Bell phoned the police at 0836, Parker and
8 Mitchell travelled to her home address?

9 A. Yes.

10 Q. They waited for her to arrive and then they brought her
11 back to Kirkcaldy Police Office later that morning?

12 A. Yes.

13 Q. So she wasn't in Kirkcaldy at 0904?

14 A. No.

15 Q. Thank you. So at some point after 0904, you became
16 aware that the man had died. Did you share that with
17 Parker and Mitchell who were waiting for Collette Bell
18 at her house?

19 A. I don't know.

20 Q. Would you have had reason to share that with them?

21 A. I may have done, but I genuinely can't say if I did or
22 didn't.

23 Q. There's nothing in your daybook that would allow you to
24 answer that sort of question?

25 A. No.

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1 Q. But you have mentioned earlier today that at some point
2 from Collette Bell's home, Parker and Mitchell -- or
3 there was contact with you at Kirkcaldy, there was
4 a phone call?

5 A. Yes.

6 Q. Do you remember who made that phone call to you? We
7 have heard it was Parker.

8 A. I don't remember which one made the phone call.

9 Q. Well, we have heard evidence that it was DC Parker that
10 phoned and made some mention of a gold phone being owned
11 by Mr Bayoh. And we have heard that you had said a gold
12 phone had been found at the locus and that you had said,
13 "Secure the house as a crime scene". Is that correct?

14 A. I don't remember the fine detail of the conversation
15 between myself and Wayne, but certainly I would have
16 asked Wayne -- I don't remember getting that information
17 about the gold mobile phone at that point, I think that
18 was later, but I certainly spoke to him about "We don't
19 know what's happened to Mr Bayoh, there are things that
20 are a disturbance at that address, we're looking to
21 secure that address, should it be required for any sort
22 of scene examination."

23 Q. And is there anything in your daybook that records the
24 call that you had with Parker from Collette Bell's
25 house?

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- 1 A. I can't say it's certain that this has come through in
2 the phone call, but the information that's written on
3 01066 where it's --
- 4 Q. Let's get that on the screen for the moment. That's the
5 first page of your daybook, so it's on the right-hand
6 side, right -- sorry, carry on.
- 7 A. Now, I think this is information that's notes that
8 I have taken during my conversation with DC Parker or
9 DC Mitchell.
- 10 Q. And what notes are you referring to?
- 11 A. The notes that are on the right-hand side of the page
12 where it has got "Collette Bell" at the top and then
13 underneath "Girlfriend".
- 14 Q. And the reference to "Last seen"?
- 15 A. Yes.
- 16 Q. Any other notes in that section?
- 17 A. I think that page may actually be all information that
18 I have taken during that time.
- 19 Q. Right. And this includes the racist comment that we
20 talked about briefly before?
- 21 A. Yes.
- 22 Q. So there's mention during this call of Zahid Saeed and
23 you have mentioned earlier "At boxing" and then remind
24 me, sorry, of what it says after that?
- 25 A. It looks like, "Back door open, house trashed".

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- 1 Q. And then after that, the next line?
- 2 A. Then it has "Last" and then a space "Light blue
3 jeans/navy blue top".
- 4 Q. So the information up to the line, halfway down that
5 page, could be information that was shared with you by
6 DC Parker?
- 7 A. It may actually go beyond that as well, because it's got
8 about boxing, Martyn Dick, so that may have been known
9 at that stage, or that information may have come once we
10 got -- once she has come back down to the police
11 station. So I can't say for certain.
- 12 Q. And then after that, what do we see, if we can go down
13 the page, make sure we see the whole thing.
- 14 A. So -- you want me to read through this?
- 15 Q. Do you think -- yes, please do.
- 16 A. So "Boxing" -- so this is underneath the line "Boxing"
17 and then it has "Martyn Dick - Kirkcaldy ..." or "KDY
18 near to H/A" and then it's got the name "Sheku -" and
19 then I've got, "Locus protection - Kirkcaldy Police
20 Station". And then a line and then, "In kitchen - next
21 to jumper, might have two phones". And then ...
- 22 Q. What does it say at the end?
- 23 A. I can't say for certain what that is. I don't know if
24 I have covered that in my statements.
- 25 Q. Can you read it now?

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1 A. Not accurately, no.

2 Q. And then does it -- is that arrow to point to the next
3 page, or --

4 A. I don't know. Oh, actually, that says, "Breast
5 feeding".

6 Q. So there is mention on the right-hand side page of maybe
7 having two phones, so there's mention of a phone. No
8 mention of a gold phone, but mention of a phone. And
9 then you were aware at that time and we have heard from
10 Ms Bell that she was breastfeeding her child at that
11 time?

12 A. Yes.

13 Q. And that information was shared with you as well?

14 A. Yes.

15 Q. So it's possible that the information noted there is
16 from a telephone conversation you had with DC Parker?

17 A. I think it is, yes.

18 Q. And is there anything on the next page that you have in
19 front of you that you think is relevant to the telephone
20 call?

21 A. It goes on the next page --

22 Q. So this will be 67, please.

23 A. -- to 67 where it says:

24 "1) No tattoos

25 2) No scars

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1 3) Small 1 inch scar left shoulder

2 4) Left cheek - indent - spot/chickenpox."

3 Q. What is this a reference to?

4 A. I honestly can't say whether that is something that's
5 information that's come from that phone call or whether
6 that's potentially a description that's been given to me
7 by somebody else. So I can't say for certain where
8 that's come from.

9 Q. All right, thank you.

10 Can we then go back to your Inquiry statement
11 please, paragraph 128. Do you have that?

12 A. Yes.

13 Q. It's on the screen:

14 "I believe I spoke to the officers that were
15 speaking to Collette Bell at Sheku Bayoh's address at
16 Arran Crescent. Information was for that locus to be
17 secured and then searched. In terms of authorising the
18 search, it's a thing that would done routinely to check
19 if someone is hiding, or for example if anyone's injured
20 under the bed. That's why we do it. We don't turn
21 things upside down."

22 Explain to us then -- you're talking about having
23 spoken to the officers?

24 A. Yes.

25 Q. "Information was for that locus to be secured and then

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1 searched", what does that mean?

2 A. So when you go back to my actual book there, the one
3 that's 01066, it has "Locus protection - Kirkcaldy
4 Police Station", so I think what I'm saying at this
5 stage is we still don't know what we've got here,
6 there's signs of disturbance that's occurred at that
7 address, so my thoughts, at that stage, are -- would be
8 to remove the occupants, to allow that scene to be
9 secured for potential scene examination.

10 Now, that would be done speaking to Ms Bell to
11 effectively say that, "We don't know what's happened and
12 we're looking to secure this scene and then would you
13 come to the police station to provide further details to
14 us." And that's what I would look for to be done at
15 that point.

16 Q. And when you say:

17 "Information was for that locus to be secured and
18 then searched."

19 Is that information from Collette Bell that is
20 shared with you via DC Parker as we have heard?

21 A. Sorry, could you repeat that question?

22 Q. So when you're looking at -- paragraph 128 and you say:

23 "Information was for that locus to be secured and
24 then searched."

25 Is that information that's coming from Collette Bell

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1 via Parker to you?

2 A. No, that's -- that, for me, would be me saying to the
3 officers, I would be looking for that to take place.

4 Q. And is that something that you said to the officers
5 after the phone call, or before?

6 A. No, that would be once we're up there, because we don't
7 know what we're going to when you first go in there, so
8 to go, to try and get the information, I get that update
9 and I'm thinking, "Right, for me, that's a potential
10 scene, we might need to do an examination at that
11 address", so that's why I would look to get that done.

12 Q. Then at 129:

13 "It's from a safety point of view it would come
14 through me. A discussion between me and the SIO would
15 confirm that we're looking to take that scene. The
16 SIO's instructions would go through me to the DCs or the
17 uniformed officers at the scene."

18 Can you explain then -- so you have had a call from
19 DC Parker from the scene, you have been given
20 information about the scene, about Collette Bell's
21 house. Tell me when you contact the SIO?

22 A. I don't know if he was in the room next to me or not
23 when I was getting these updates. He may have been, but
24 that's something that I would be looking to speak to
25 DI Robson about, to confirm that what I'm looking to do

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1 or what I'm thinking would be a proportionate would be
2 confirmed by him.

3 Q. And if he was in the room, you could obviously speak to
4 him.

5 A. Yes.

6 Q. If he is not in the room, how would you go about
7 contacting him to get that instruction?

8 A. I would potentially go and try and find him in the
9 station, or I would try and phone him.

10 Q. Once you have an instruction from the SIO, do you then
11 phone DC Parker or Mitchell back?

12 A. I don't know, because I don't know if Colin -- DI Robson
13 was in the room with me or not. It may be that we have
14 just spoken about it, yes.

15 Q. And the SIO was at that time Robson, Colin Robson?

16 A. Yes.

17 Q. And then can we look at paragraph 130:

18 "The legal side of it, it's a hard one ..."

19 Sorry, 130 please:

20 "... a lot of the time when you're seizing property
21 you're looking for consent. Otherwise you're looking
22 for a warrant and any examination or search authorised
23 by a fiscal and then a Sheriff. It goes back to
24 preservation of life and detection of crime. For
25 example if something's happened at an address you have

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1 to ensure people are safe and well, and potentially
2 obtain a warrant. If not then you're not doing searches
3 because you don't have authority to do so."

4 So I'm interested in your understanding of the
5 position when the police have authority to, first of
6 all, seize a property and later to search a property.
7 And what's your understanding of what the officers will
8 do, first of all, to seize -- to have the authority to
9 seize a property?

10 A. You are effectively asking that person to say, "Listen,
11 look, you've got your property and we are looking to
12 secure that just now as part of this investigation", so
13 you're asking them for permission to do that.

14 Q. Seeking consent?

15 A. Seeking consent, yes. In terms of the search that's
16 mentioned there, once a property would be secured,
17 I would be looking for a walk-through of that property
18 to be done to make sure that there's no other person
19 within that house who could potentially interfere with
20 the scene as it was.

21 This though was a concern for a call as well by
22 Ms Bell, concern for her partner, so I would expect
23 officers, as we would do for any concern for a missing
24 person style investigation, would be to do
25 a walk-through that address to say, "Are they here?"

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1 Now, I don't know the fine detail of what was
2 discussed between them at that time, but that's
3 certainly what I would be doing if I was in the house.

4 Q. So is it part of your role, when you are originally
5 tasking the officers, in this case Mitchell and Parker,
6 to consider questions of the legal authority that you
7 have, or they will have, to enter the property or to
8 seize the property?

9 A. Is it part of my role to ...?

10 Q. To anticipate.

11 A. I don't remember a conversation before they went there
12 roundabout that. I remember, "Let's just get up there
13 and let's go and speak to her".

14 Q. And should it have been part of your role to anticipate
15 that authority may have been needed?

16 A. It could be, but you really don't know what you're going
17 to until you go to that address and because it's
18 fast-paced at that time ...

19 Q. Right. So was it something you considered in advance of
20 sending Parker and Mitchell to Collette Bell's house?

21 A. No. For me, it was, "Let's go up there and let's see
22 what we've got."

23 Q. And then once they have arrived and assessed what
24 they're going -- what they have gone to, is it part of
25 their role to come back to you and discuss the question

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- 1 of authority with you, or is that not necessary?
- 2 A. It's something that could be discussed certainly between
3 us. I don't remember discussing the fine detail of that
4 on that day.
- 5 Q. Was there anything in your daybook that would suggest it
6 was discussed?
- 7 A. No, I have not got any notes in relation to that.
- 8 Q. And so you have mentioned here there's the option of
9 consent?
- 10 A. Yes.
- 11 Q. There's the possibility of obtaining a warrant?
- 12 A. Yes.
- 13 Q. And you also talk about something called preservation of
14 life and detection of crime. So that's if you're
15 checking it's safe and there's no one hiding somewhere?
- 16 A. Yes.
- 17 Q. And is that sort of third option that the police can go
18 in to check if -- preservation of life and detection of
19 crime?
- 20 A. Well, not so much the detection of crime, because we
21 cannae just go into someone's house to detect a crime,
22 but preservation of life is the core function of the
23 police effectively and we will regular for missing
24 persons and things like that go and check an address.
- 25 Q. Can they do that without consent or without a warrant

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- 1 for the purposes of preservation of life?
- 2 A. For preservation of life, my expectation would be you
3 could enter a property, if you have reason to believe
4 that is there someone injured in there or that needs
5 emergency assistance, your expectation is you would go
6 and do that.
- 7 Q. And on this occasion, the call has been made by Ms Bell
8 herself to come out and to explain the house that's --
- 9 A. Yes.
- 10 Q. So in terms of Ms Bell's house, the officers have
11 arrived, they have had a conversation with you on the
12 phone, you have not had a conversation about legal
13 authority. Knowing what you knew about the scene,
14 I think you said in your statement that you wanted the
15 locus to be secured and then searched. I think a moment
16 ago, you said about secure it and potentially scene --
17 potentially for scene examination.
- 18 A. Yes.
- 19 Q. I think that's the phrase you said.
- 20 A. Yes.
- 21 Q. Now, what authority, what legal power did the police
22 have to, first of all, secure or seize the house?
- 23 A. That would come through conversation with Ms Bell and
24 asking effectively for the consent.
- 25 Q. So is that consent?

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- 1 A. Yes, at that point, yes.
- 2 Q. We have heard from another officer in evidence,
3 a DC~Finch, that one of the ways to make sure consent is
4 given is to give a full explanation, explain it is
5 voluntary, they can remove that consent at any time, and
6 he talked about writing it in his notebook and having it
7 signed by the owner of a property.
- 8 A. Yes.
- 9 Q. Is that good practice, is that something you
10 would approve of?
- 11 A. Definitely.
- 12 Q. And you say that -- you said that Ms Bell's house was
13 considered to be a crime scene. Was that because of the
14 state of the property as far as you were aware?
- 15 A. Potential crime scene, signs of disturbance, I'm
16 thinking, "What's happened here?" So yes, that could be
17 a scene of something that's taken place.
- 18 Q. So this was not a situation that day where any warrant
19 was sought in relation to Ms Bell's house?
- 20 A. No, not at the time I was involved.
- 21 Q. Can we look at paragraph 131, please. And you say:
22 "I don't remember on that day if there were concerns
23 from the people in relation to the properties, meaning
24 the householders, effectively. I don't know if there
25 was consent recorded or not. I don't know if further

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1 down the line there were warrants granted for
2 examinations that took place. I wasn't aware of anyone
3 refusing police access because nothing was raised to me.
4 If nothing was raised, then the householders were fine
5 with what's taking place. If there had been an issue
6 with any of the properties, then it would feed back to
7 me and I would refer that to the SIO and we would be
8 thinking should we be obtaining warrants? I don't
9 remember checking this with the officers on the day.
10 I don't remember checking with the officers that they
11 had permission from the householders to secure the
12 property."

13 Let's just look at that paragraph for a moment, if
14 we can go back up.

15 So thinking back now, do you remember if any of the
16 officers who went to any of the properties that you had
17 listed as loci, or locuses in your daybook, mentioned
18 that there were any concerns or problems with removing
19 the householders?

20 A. The only thing I remembered was later on in the day was
21 there was a concern in relation to someone who may have
22 mobility issues. Now, I think they had tried to -- they
23 were trying to sort that effectively, so I remember
24 getting an update at some point saying, "We've got
25 issues in relation to some mobility issues and we're

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1 trying to effectively solve it."

2 Q. So that was a phone call later in the day?

3 A. Yes, yes.

4 Q. We will come back to that.

5 A. Okay.

6 Q. So your role -- and you have talked about the priority
7 actions, the fast-track actions, you have referred us to
8 page 1 of your daybook and the different addresses that
9 you've got listed. And I'm trying to understand here,
10 if you were tasking those priority actions, why you say
11 here that you don't know if there were concerns from
12 householders, you don't know if there was consent, you
13 don't know if warrants were granted, you weren't aware
14 of anyone refusing police access.

15 You have talked about you tasking those priority
16 actions and you assisting with that part of the
17 investigation. Why would you not be aware of these
18 things?

19 A. I don't remember anyone coming back to me to tell me
20 there were issues raised in relation to what they had
21 been asked to do. Now, it's maybe wrong in me that
22 I should have checked that, but I don't remember doing
23 that.

24 Q. Well, do you think you should have checked those things?

25 A. Yes.

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1 Q. I mean, looking back now, would you --

2 A. Yes.

3 Q. -- want to be in a position to say you had checked?

4 A. Yes.

5 Q. Could we look at paragraph 132. Further down the page:

6 "I don't know anything about what was seized. My
7 involvement ended when I went off-duty. I fed back to
8 the SIO that these properties had been secured. They
9 would then discuss among themselves what to do with the
10 property but I wasn't party to any involvement in that.
11 The SIO or PIRC would be effectively responsible for the
12 property overall."

13 Can you tell us -- you say your involvement ended
14 when you went off-duty. Do you remember what time you
15 went off-duty?

16 A. It was late, 11 o'clock at night maybe.

17 Q. And prior to going off-duty did you have some sort of
18 briefing or update for the SIO?

19 A. I don't remember a particular sit down brief later on at
20 night. I was giving information throughout the course
21 of the day. I don't remember a particular finish to
22 that.

23 Q. When it says "I fed back to the SIO", presumably -- are
24 you still talking about Robson there?

25 A. Yes, I would still speak to Colin.

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1 Q. So "I fed back to the SIO that these properties had been
2 secured"; when did you feed that back to him?

3 A. That would have been done throughout the course of the
4 day as these loci were effectively secured.

5 Q. Right, so that was a rolling feedback rather than one
6 particular briefing?

7 A. Yes.

8 Q. And then you say:

9 "They would then discuss among themselves what to do
10 with the property."

11 Who is "they" when you refer to "they"?

12 A. I'm thinking at that point, well, who has actually got
13 control of that investigation at that point would then
14 be for me making the decisions roundabout what they're
15 doing at each of these loci.

16 Q. Right. Can I ask you to move on to paragraph 136
17 please. You've said -- this is in relation to
18 Collette Bell's house:

19 "This is asking for her consent to seize the house
20 and search it. I don't recall discussing the legal
21 basis to seize the property with DC Andy Mitchell.
22 Effectively if Collette Bell is not raising any
23 difficulties with the search then she has consented to
24 it."

25 I'm interested in that comment. If a householder

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1 simply doesn't raise issues, do you assume that that's
2 consent?

3 A. I would prefer written consent, that's what you want.

4 Q. As we heard about from DC Finch --

5 A. Yes.

6 Q. -- in the notebook with the signature?

7 A. Yes. That would be best practice for me. I don't know
8 if that was done on the day or not.

9 Q. Right. As part of the obtaining consent and noting it
10 in the notebook, DC Finch also talked about it's
11 important to explain the purpose of the search so that
12 the occupier understands that consent can be withdrawn
13 at any time. Is that the sort of information you would
14 want a householder or an occupier to have available to
15 them?

16 A. Yes.

17 Q. I would like to ask you about when a house is seized and
18 maybe searched. I would like to ask you some questions
19 about the officers who are at the scene and a discretion
20 they may have to recover belongings from the house.

21 Now, we have heard some evidence from householders
22 who have left the house at the request of officers, if
23 I can put it as generally as that, but on occasion they
24 have forgotten to take something with them that they
25 would have liked to have had from the house. Could you

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1 tell us, for officers who are attending at houses and
2 maybe seizing the home, what power do they have, what
3 discretion do they have to allow people to maybe return
4 to the home to recover things they have forgotten, or
5 for the officers themselves to retrieve items?

6 A. So you mean in the officers potentially that are sitting
7 on a locus protection, so it could be like a uniformed
8 protection sitting on a door?

9 Q. Yes, it could be a uniformed officer, or it could be
10 an officer who is saying "I want to seize this house",
11 getting the occupiers out of the house, but then the
12 occupier says "I've forgotten something, I'd like to
13 retrieve something", that type of situation.

14 A. Yes.

15 Q. We have heard quite a bit of evidence about that.

16 A. Okay.

17 Q. What can the officers do in that situation?

18 A. They would normally come back to look for approval that
19 you can go back into that scene because --

20 Q. Who do they get that from?

21 A. They could come to me for my views on that, or
22 potentially an SIO or another sergeant or someone.

23 Q. And I interpreted you there, sorry, you were about to
24 say "because" and explain why they would have to get
25 approval.

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- 1 A. Yes, sorry, yes.
- 2 Q. It was my fault for interrupting, I'm sorry.
- 3 A. So you've got a scene and generally with the police once
4 a scene is secured you want to keep it as is for the
5 integrity of that scene, so it's there, so if there's
6 photographs getting taken, if there's important evidence
7 that's there it's still in situ, it's not been moved,
8 there's nothing tampered with. So generally if I've got
9 a scene and it's come from consent, I would try and
10 speak to what person and say "Listen, look, if it's
11 really not essential I would prefer we don't go back in
12 there because I don't want to interrupt and affect the
13 integrity of that scene."
- 14 Q. So you would give an explanation?
- 15 A. Yes, you would try and talk it through then with them.
- 16 Q. And when you say, you know, "if it's not essential",
17 what sort of things are you thinking about would be
18 essential or not essential?
- 19 A. I think I got asked on that day in relation to -- was it
20 breastfeeding equipment and I remember just saying "Aye,
21 yes", because I was thinking -- it was just common
22 sense, so you know, you -- you don't want to be
23 interrupting the scenes, but at the same time it's --
24 you've got to get -- that baby's needing fed, ey, so
25 that was one example I could think of on that day.

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- 1 Q. Do you remember who that related to?
- 2 A. That was the first address, Ms Bell's address.
- 3 Q. So it was Ms Bell?
- 4 A. Yes.
- 5 Q. We have heard evidence that she was breastfeeding her
6 baby at that time in May 2015 and had requested express
7 milk for her baby and one of the officers had returned
8 to the house and got that for her.
- 9 A. Okay.
- 10 Q. So you're quite comfortable that officers can do that,
11 even though the house had been seized?
- 12 A. I'm sure they asked me about that.
- 13 Q. So would that be officers Mitchell and Parker --
- 14 A. Yes.
- 15 Q. -- had made that request?
- 16 A. Yes, at that address, yes.
- 17 Q. And you had given your approval?
- 18 A. Yes.
- 19 Q. Did you have any other requests that day from any of the
20 other properties for your approval?
- 21 A. I don't remember any others.
- 22 Q. Can you think of any reason why an officer in that
23 situation would not collect express milk for
24 a breastfeeding mother where the house has been seized?
- 25 A. See, if that house has been seized -- and this wasnae

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1 the circumstances, this is just a general idea, right.
2 If there was blood in a kitchen and up over and it went
3 over the milk and things like that, and it was
4 a complete stranger and you didnae have a clue, you
5 maybe would be doing footwear marks in the ground and
6 stuff like that, you know, that's when you would say
7 "No, we really cannae go in", but on that day there
8 were scenes of general disturbance, it was her own
9 house, she had been in it before, the officers had also
10 been in it, so for me it made common sense for them to
11 go and take that item and take it.

12 Q. So does it require officers to just apply a bit of
13 common sense but to seek approval from their more senior
14 manager -- officer?

15 A. Yes.

16 Q. But to apply a bit of common sense to the situation?

17 A. Yes.

18 Q. And would the same apply to someone who says they have
19 forgotten medication that they need, or their mother has
20 forgotten medication that they need?

21 A. If that was medication that was required for their
22 ongoing treatment and it couldnae be picked up from Asda
23 or something like that.

24 Q. Well, this was a Sunday and we have heard evidence that
25 someone had left medication and their mother had left

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- 1 medication in the house.
- 2 A. Unless there was anything -- if that question had come
3 to me now and unless there was anything at that scene
4 that I was really concerned about with officers going
5 back in and potentially interfering, I would be saying
6 "Recover the medication".
- 7 Q. Do you remember that day receiving any calls at all
8 about -- other than the one you have mentioned relating
9 to Collette Bell -- about a call in relation to
10 medication being sought, or a breast pump, or express
11 milk? Do you remember any other calls about someone
12 trying to retrieve those items?
- 13 A. No.
- 14 Q. And just so I'm clear, this would relate to what you had
15 noted as Mr Saeed's house. We have heard evidence from
16 his family, wider family --
- 17 A. Yes, sorry, about --
- 18 Q. -- that those were items that were sought that they
19 weren't allowed to recover from the house.
- 20 A. Sorry, who said that they weren't allowed to
21 recover items?
- 22 Q. Mrs Rashid has given evidence, who is Zahid Saeed's
23 sister, and she has given evidence to the Chair that she
24 had left the house, had forgotten her breast pump and
25 express milk for her baby that she was breastfeeding,

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1 eight-weeks old, that she and her baby had had recent
2 operations, that they had forgotten medication and that
3 her mother had forgotten medication and they weren't
4 permitted to recover that and the officers would not go
5 back in to recover that.

6 A. I don't -- I'm not aware of that.

7 Q. You're not aware of any of that?

8 A. No.

9 Q. No calls made to you about any of that?

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

11 Q. Can we move on to when the officers come back to
12 Kirkcaldy Police Office with Collette Bell please.
13 DC Mitchell had said it was your instruction to bring
14 Collette Bell back to Kirkcaldy Police Office. Can you
15 explain why you wanted her brought to the police
16 station?

17 A. It's quite common when you're dealing with
18 investigations like this where, if you're looking to
19 secure an address, it allows you then to bring the
20 person to the police station to effectively start then
21 noting their statement and gathering the information
22 from them.

23 Q. You didn't think it was appropriate to speak to her
24 while she was in her own house?

25 A. But at that point, you know, they're talking about the

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1 disturbance -- signs of disturbance in the address, so
2 for me it would be better to keep that as it is just in
3 case that was linked, so that's why we would ask
4 somebody to come away from the house.

5 Q. Thank you. We have heard from DC Mitchell that they
6 brought her back to Kirkcaldy Police Office and we
7 have -- if we look at paragraph 90 of your Inquiry --
8 sorry, not your Inquiry statement. We have heard it was
9 either about 10.45 or 11 o'clock in the morning. Would
10 that be roundabout the time that you think she was back?
11 I think I mentioned one of your PIRC statements earlier
12 and you had said 10.45.

13 A. I think it must be around about that time because I have
14 written 10.45 in my book when I'm speaking to DI Robson
15 and DC Parker, so it must have been back at the station
16 at that time.

17 Q. And are you looking at your daybook again?

18 A. Yes.

19 Q. Is that the first or the second page --

20 A. It's actually -- it's 68.

21 Q. 68. Let's have that on the screen for a moment. So
22 this is 68 and where do you see the time you mention?

23 A. Almost halfway down the page: "10.45" and then dash.

24 Q. And what does it say there?

25 A. It says "10.45" dash and then "Chunk".

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- 1 Q. And after that?
- 2 A. "Death message - DC Parker tell Collette black male
3 dead."
- 4 Q. What's that a reference to at 10.45?
- 5 A. That's a reference to me being in the office and Wayne
6 had come up and was giving us an update.
- 7 Q. Wayne Parker?
- 8 A. Wayne Parker had come up and I think the information
9 potentially above may have come from Collette, so Wayne
10 comes up giving me an update and during that time he has
11 mentioned about the -- a gold mobile phone. Now, is it
12 at that point -- because I'm sure there was either
13 a gold mobile phone either found on Mr Bayoh or found at
14 the scene and I remember at that time saying "It's got
15 to be him", so -- and it was at that point, 10.45,
16 myself and Colin Robson spoke briefly and said "We've
17 got to tell Collette".
- 18 Q. I'd like to try and get a clear picture of what's
19 happening at this time. We have heard from Mitchell and
20 Parker that they brought Collette Bell back, put her
21 into the first interview room at Kirkcaldy Police
22 Station, that Mitchell remained with her and the baby
23 and her mum Lorraine Bell and Parker came upstairs, as
24 he put it, to speak to you.
- 25 A. Yes.

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- 1 Q. So when we see these notes that you have made in your
2 daybook on the left-hand side, when were they made?
- 3 A. I think that's when Wayne has come up the stairs and
4 given me an update of further information about what the
5 circumstances were.
- 6 Q. So would this be at the point they have arrived back in
7 Kirkcaldy and are just telling you that that's them back
8 or ...?
- 9 A. Yes, effectively that's -- so he's -- I think he's come
10 up and actually given me an update at that point where
11 he goes on to say "Last seen yesterday afternoon going
12 to Martyn Dick's, Zahid Saeed". Then 11 (inaudible)
13 hours "Spoke to partner, someone disrespecting him" and
14 then Zahid calls, 0730 hours, "He went off on one".
15 I think that's information that's come from Collette to
16 those officers.
- 17 Q. To Parker and Mitchell?
- 18 A. Yes.
- 19 Q. And then the 10.45 reference, which is under the line
20 and the reference to Martyn Dick, that's your discussion
21 with DC Robson at that time?
- 22 A. Yes.
- 23 Q. Now, was DC Parker with you when you contacted Robson,
24 or was Robson in the room with you both?
- 25 A. I don't know if DI Robson was there when Wayne come up

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1 to give me the update or not, or whether I got him and
2 said "Colin, come and listen because this is
3 significant".

4 Q. So by 10.45 you knew that the male had been pronounced
5 life extinct, you have noted that in a previous page of
6 your daybook.

7 A. Yes.

8 Q. And at this stage there's mention of a death message.
9 Now, who is Chunk? I think you mention it in your
10 statement?

11 A. Yes, I do. That's DI Robson.

12 Q. So you knew him reasonably well. That's a nickname, is
13 it?

14 A. Yes.

15 Q. And who gave you the instruction to deliver the death
16 message to Collette Bell?

17 A. We spoke and we spoke through it and I don't know who
18 come out and said exactly what, but I just remember
19 writing -- I've wrote there "Tell Collette black male
20 dead" because we wanted to be clear that we thought it
21 may be her partner.

22 Q. And when you say "we spoke" are you talking about
23 DC Robson?

24 A. Myself and DI Robson, yes.

25 Q. Sorry, DI Robson.

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1 Then can we look at PIRC 136 please, page 2,
2 paragraph 4. It is nice for me to have the right page
3 and paragraph number. Do you have that in front of you?

4 A. Page 2, paragraph 4?

5 Q. Yes. Now, this is the statement that you prepared
6 yourself on 4 May at 11 in the morning, so page 2,
7 paragraph 4, you say:

8 "About 10.45 hours ..."

9 This is 3 May:

10 "... I spoke with DI Robson and the decision was
11 made to inform Collette Bell that a black male had been
12 found dead."

13 Is that your recollection the day after and is that
14 what we saw in your handwritten daybook you have just
15 mentioned?

16 A. That's a statement I have compiled the day after, but
17 the only difference is I've got there is "found dead"
18 and in my daybook it's got "Tell Collette black male
19 dead" and not "found dead".

20 Q. Right. When you prepared your handwritten notes in your
21 daybook, how long after the discussion with Robson was
22 that prepared or was it contemporaneous?

23 A. That was written when we've made that --

24 Q. During the conversation?

25 A. Yes, that was written at 10.45 because I remember

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1 thinking "We've got to tell her" and I wrote that down.

2 Q. "Black male dead"?

3 A. Yes.

4 Q. And then the day after, at 11 in the morning on 4 May,
5 you record this as:

6 "I spoke with DI Robson and the decision was made to
7 inform Collette Bell that a black male had been found
8 dead."

9 Now, looking at that information now, do you
10 remember whether the conversation with DI Robson was to
11 the effect that a black male had been found dead, the
12 word "found" is there, or do you think your handwritten
13 notes are a more accurate reflection of what DI Robson
14 told you?

15 A. I have written the word "found" there the day after.
16 However, my recollection is we didn't go into the
17 circumstances of Mr Bayoh being found dead because he
18 wasn't found dead, he was found by the police and
19 subsequently died, so --

20 Q. So looking at your handwritten notes and comparing what
21 we see here in your statement of 4 May, what do you
22 think is accurate?

23 A. I think the most accurate is the message to tell
24 Collette that a black male is dead.

25 Q. Right. Then you go on in your PIRC statement, page 2,

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1 paragraph 4:

2 "I relayed this information to DC Parker.
3 I instructed that this information be relayed to
4 Collette Bell and the reason that we suspected it may be
5 her partner was that the police had also recovered
6 a gold mobile phone similar to that owned by the
7 deceased."

8 So that's where you shared that with DC Parker and
9 told him to go and tell Collette Bell.

10 A. Yes.

11 MS GRAHAME: Now, I'm conscious of the time. Would that be
12 a --

13 LORD BRACADALE: Would that be a convenient point to stop?

14 We will stop and sit again at 2 o'clock.

15 (1.01 pm)

16 (The luncheon adjournment)

17 (2.04 am)

18 LORD BRACADALE: Ms Grahame.

19 MS GRAHAME: Thank you.

20 We were talking about the death message before
21 lunch. What's the normal practice when you prepare
22 a death message for relaying to the next of kin?

23 A. It depends on the circumstances of the death. A general
24 death message, officers will be tasked quite regular to
25 go out and pass a death message for, you know, a routine

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1 death, or something that's kind of put or be in another
2 area and they're asked to go and pass death messages.

3 Q. We have heard it's a difficult task for officers to go
4 and do that.

5 A. Yes, it is.

6 Q. Is the wording of a death message prepared in advance?

7 A. Not routinely, no.

8 Q. Who decides on the wording of a death message?

9 A. Again, depending on the circumstances of the case, if
10 it's something that's fairly routine, the officers who
11 go would discuss that before they go to the address, who
12 would take the lead and what the words were that were
13 going to be used.

14 Q. If it's not routine, if it's out of the ordinary, is the
15 practice to prepare a death message?

16 A. It can be. I have done it before in deaths which
17 effectively are suspicious deaths and it's not been
18 prepared and read out, it's been still just an actual
19 conversation that you go and try to give someone.

20 Q. If it's an unexplained death, such as the one at
21 Hayfield Road, is it normal practice to prepare
22 something in writing to give to the officers?

23 A. No, it's not, no.

24 Q. So in terms of paperwork and recording what message is
25 to be delivered, tell us how that is normally done. Is

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- 1 there any normal procedure?
- 2 A. Not for --
- 3 Q. Or was there in 2015?
- 4 A. Not that I know about. Definitely if you were deploying
- 5 family liaison officers, then maybe a family liaison log
- 6 where you would agree with the family liaison officer
- 7 exactly what was going to be said. But for more routine
- 8 cases or cases where it's just the officers that are
- 9 going to pass that, it's the message is passed, passed
- 10 ultimately that they have passed.
- 11 Q. To what extent do the officers who would relay the death
- 12 message to the next of kin have discretion or can they
- 13 make their own interpretation of the death message?
- 14 A. If I have asked officers in the past to go and pass
- 15 a death message, you just try and make sure that they're
- 16 given a direct and informative message to what's
- 17 taken -- to what's -- the fact that they're dead is an
- 18 important part and being clear when you're passing that
- 19 message.
- 20 Q. And when you say that you have passed, do you mean you
- 21 as a detective sergeant would pass the information to
- 22 the officers who then relay it to the family?
- 23 A. That would be as a detective sergeant, just as a duty
- 24 sergeant, which would be more common in relation to
- 25 death messages, to be honest, or regular messages.

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1 Q. So is there anywhere that we could find an accurate
2 recording of a death message, or is it just a question
3 of looking at various possible sources, like statements,
4 day books, notebooks, that type of thing?

5 A. For this incident?

6 Q. I just mean in general.

7 A. In general. I actually don't think I could tell you
8 where to go and look, other than the family liaison log
9 if there's a family liaison officer identified.

10 Q. So if there's not a family liaison officer, there's not
11 a certain place where you would keep that information?

12 A. No, no.

13 Q. Can we look at your statement PIRC 137, please. So this
14 is your statement of 11 June 2015 that you gave to PIRC.
15 Can you see that? You will have the hard copy and if we
16 can look at page 2 of that statement, paragraph 3, and
17 you will see, it says:

18 "With regards to the death messages delivered to
19 Collette Bell ..."

20 Have you got that?

21 A. Yes.

22 Q. "... and thereafter the family. When Collette Bell was
23 within Kirkcaldy Police Office, I spoke to DI Colin
24 Robson, and whilst I did think it was Sheku Bayoh who
25 was dead, at that time there was no formal

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1 identification so between me and Colin Robson we
2 delegated Wayne Parker to tell Collette Bell, words to
3 the effect that '...'"

4 And then you've got it in quotation marks here:

5 "... 'a black male had been found dead and we
6 suspected that it may be her partner'."

7 And I'm interested why you have that phrase in
8 quotation marks there?

9 A. That's a summary of what the general information was
10 that was passed.

11 Q. Passed by you to DC Parker?

12 A. Yes.

13 Q. Sorry, DS Parker. So when you say "words to the effect
14 that" and now you have said a general summary, we see
15 there it says "a black male had been found dead", do you
16 see the word "found" there again?

17 A. Yes, I do, yes.

18 Q. So did the word, or the words "found dead", were they
19 shared by you with DC Parker?

20 A. I have written that statement -- well, in fact, I have
21 mentioned it in the statement that I done the day after
22 and I have mentioned those words again when I have done
23 the statement with the PIRC. I can't say for certain
24 what words were used, because I have not written it like
25 we did later on, but the message that I've got in my

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1 daybook is for me more accurate in relation to what the
2 message was that was to be passed.

3 Q. Right. So let's go back to that entry in your daybook,
4 if we may, just for a moment. Was that at 168?

5 A. Yes.

6 Q. If we could have that back on the screen, please. And
7 this was on the left-hand side at 10.45. You have told
8 us about the entry and it says, "Tell Colletteblack male
9 dead".

10 A. Yes.

11 Q. Now, the other references in your self-penned statement
12 of 4 May and the PIRC statement in June use the words
13 "found dead".

14 A. Yes.

15 Q. And we can see that "found dead" is not in your daybook,
16 but I'm thinking about the words that you would have
17 used to share the death message with DC Parker. How
18 likely is it that you said to DC Parker, "Tell
19 Colletteblack male dead"?

20 A. I don't know the exact words I used and I would be lying
21 if I was saying what the exact wording was.

22 Q. Do you think you would have said to DC Parker, "Black
23 male dead"? It just seems very blunt, if we look --

24 A. Yes, but I also don't think we went into the details of
25 the circumstances in which he was found, so that's why

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- 1 I think that is more accurate.
- 2 Q. The daybook?
- 3 A. Yes.
- 4 Q. So if you were using your own words now to share
5 information with an officer and what you have in your
6 daybook is "Tell Colletteblack male dead", how would you
7 describe that to an officer who you're asking to go and
8 relay a death message?
- 9 A. Well, if I was doing it again now in circumstances like
10 this, I would be recording exactly what I have told him.
- 11 Q. But if you were saying it, how would you phrase those
12 three words "black male dead"?
- 13 A. That's what I would say. I would say, "We need to get
14 the message across that a black male is dead." Now, if
15 I was doing that to an officer, you know, what they --
16 that's the key message that you want to get across
17 there. I would ask them to go and to effectively
18 deliver that message.
- 19 Q. And the words you would say are "a black male is dead"?
- 20 A. In the circumstances that we've got for this, that's --
- 21 Q. From those words there.
- 22 A. Yes, yes.
- 23 Q. You wouldn't just say, "Black male dead", you would say,
24 "A black male is dead"?
- 25 A. Yes.

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1 Q. Thank you. Now, we have heard evidence from Parker
2 about delivering the death message to ColletteBell and
3 we have heard evidence from ColletteBell and
4 ColletteBell has a recollection, as she has explained to
5 the Chair, that her understanding of what she was told
6 at the time was that she was told that Mr Bayoh had been
7 found dead, he had been found by a passerby and she was
8 under the impression that he had been found murdered and
9 when she left after she gave her statement, that
10 remained the impression that she had, that he had been
11 found murdered.

12 You have explained about the statements, you have
13 explained earlier today, it wasn't true that he was
14 found dead, we know he was alive when the police arrived
15 at Hayfield Road --

16 A. Yes.

17 Q. -- and he lapsed into unconsciousness then. Was there
18 anything at all that you remember saying to DC Parker --
19 DS Parker, that indicated in any way that the male had
20 been found dead or found by a passerby?

21 A. No.

22 Q. Nothing that you said at all?

23 A. No.

24 Q. Was there anything that you shared with Parker that
25 would have given him the impression that the male had

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1 been found murdered?

2 A. No.

3 Q. And finally, was there anything that you said when you
4 were talking to Parker that would have given the
5 impression that there was a warrant for the male's
6 arrest?

7 A. No.

8 Q. So you can't give any explanation why that may have
9 become part of the conversation, if it did become part
10 of the conversation?

11 A. No, I can't.

12 Q. Can I ask you about the timing of the death message to
13 ColletteBell and the nature of the identification at
14 that stage.

15 You have explained to us earlier today that
16 identifying the male was a priority action as part of
17 the initial investigation and you have said in your
18 statement that you didn't have a formal identification
19 at the time that the decision was taken to relay the
20 death message to ColletteBell.

21 Can you tell us a little bit about why ColletteBell
22 was told -- was given the death message at a time you
23 didn't have a formal ID, you didn't have that sort of
24 certainty?

25 A. Because I thought -- at that time, I thought it was the

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1 right thing to do to tell her, because I was upstairs,
2 there's a lady downstairs with a child reporting concern
3 for someone and I believed it was him from the
4 information I was getting. So I wanted to get that
5 across to the officers to say, you know, it wasn't
6 a confirmed identification but, you know, this is what
7 we're -- this is what we think we're dealing with and we
8 wanted to get that message out.

9 Q. And does this link in with what you said earlier today
10 about the importance of getting that information out to
11 family quickly?

12 A. Yes.

13 Q. And can you tell us what your expectation was at that
14 time about a formal identification being carried out?

15 A. I didn't know how that was going to take place that day,
16 whether we were going to be able to get identification
17 from potentially police officers or pictures or
18 something like that, or whether there would have been
19 arrangements for some sort of formal identification.
20 I didn't know how that was going to play out.

21 Q. Did you have any information about how the
22 identification would be carried out at any point that
23 day?

24 A. No, I don't actually know how that identification was
25 confirmed eventually. I think it was done through

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1 police -- I actually don't know for certain how we got
2 that confirmation of identification.

3 Q. Right. Was that something that you were involved in?

4 A. No. I remember asking, "We need it", you know, and
5 trying to get it. But physical going and doing things
6 for that, no, I didn't.

7 Q. Who did you ask?

8 A. I think it was DS Davidson that was involved in trying
9 to arrange and get the identification.

10 Q. Now we have heard that there was a DS Samantha Davidson.

11 A. Yes.

12 Q. Is that who you are referring to?

13 A. Yes, that's right, yes.

14 Q. And she was involved at a later stage about trying to
15 carry out an identification at Victoria Hospital. Is
16 that her -- are you -- were you aware that she was
17 involved in doing that?

18 A. Yes, I'm aware DS Davidson was involved at the scene and
19 then effectively tried to arrange to get an
20 identification.

21 Q. Were you involved in tasking her with identifying the
22 male at Victoria Hospital?

23 A. I don't remember specifically tasking her, but
24 I remember thinking that we needed to get identification
25 and I don't know whether that come from me or whether it

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1 was another officer asking DS Davidson to do that.

2 Q. Is there anything in your daybook that would indicate

3 that you were involved in getting her to assist with the

4 identification?

5 A. I don't think there is.

6 Q. Do you know how the male was identified at --

7 A. I don't know how they done it eventually. There was

8 some sort of -- I'm sure there was a photograph from

9 somewhere that got some sort of confirmation that they

10 were -- confirmed it was him.

11 Q. Is that something you were aware of, or something you

12 were just simply not involved in?

13 A. Well, I was not involved in doing that process.

14 Q. But you became aware that that had been done?

15 A. Yes, yes.

16 Q. Do you remember when you found out that there had been

17 an identification of some sort?

18 A. I don't remember, no.

19 Q. Can you explain the difference between identifying

20 a person for the purposes of notifying the family

21 compared to an identification for the purposes of having

22 a post-mortem carried out?

23 A. So in terms of for identification, if I'm going to an

24 address or asking officers to go to an address and, for

25 example, the police officers knew -- had dealings with

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1 the person who had passed away and could say for
2 certain, I would be looking for that message to pass to
3 say, "Certainty, person is deceased and you can give
4 that message", but that's not what we did initially with
5 this. And in terms of for post-mortem examination, the
6 normal process is for identification for two in life,
7 two in death, normally prior to the post-mortem
8 examination taking place.

9 Q. Can you explain what that is?

10 A. That would be for two people that knew the person who
11 has passed away in life and can identify them would go
12 and identify that person as the person that's passed
13 away, and two officers who have potentially dealt with
14 him after he has died, then do the identification. So
15 that's normally done in cases I've been involved in
16 prior to a post-mortem.

17 Q. Is that the normal practice where someone has died?

18 A. Yes, for -- where there's a requirement for post-mortem
19 examination, yes.

20 Q. And the two in life would be family or a partner or
21 a spouse or someone along those lines?

22 A. Yes.

23 Q. Next of kin?

24 A. Yes.

25 Q. But you weren't involved with any of those arrangements?

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- 1 A. No.
- 2 Q. Can I ask you about some evidence we heard from
3 Mitchell, Andrew Mitchell. He said in evidence that you
4 instructed him -- him and -- he was with Parker -- not
5 to say to ColletteBell that there had been police
6 contact with Mr Bayoh or partner that day. Did you say
7 not to tell ColletteBell that there had been police
8 contact?
- 9 A. Was that right at the start, at 10.45?
- 10 Q. Well, do you remember saying that to him?
- 11 A. I remember the message that we agreed to pass at 10.45
12 was we didn't go into the circumstances of him being
13 found at that stage.
- 14 Q. So that would be when the death message was given to
15 ColletteBell?
- 16 A. Yes.
- 17 Q. Why did you tell them not to say to ColletteBell that
18 there had been police contact?
- 19 A. At that time, we didn't know what the extent of the
20 contact was, we didn't know what had taken place, who
21 had done what, what the circumstances were and we still
22 didn't have confirmation that that was Mr Bayoh at that
23 time as well, although I believed it and I wanted that
24 message passed, we didn't have certainty that it was
25 him. So, at that stage, we said to pass the death

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1 message and then we will regroup and say, "Right, what
2 message are we going to be passing to the family?"

3 Q. Was that your decision alone?

4 A. No, that was when myself and DI Robson were sitting.

5 Q. When you say "sitting", do you mean sitting in the same
6 room?

7 A. Well, we were in the -- it was when we were having the
8 discussion roundabout passing the death message, what
9 we're going to say, what can we say. And at that point,
10 it's like, well -- it was just still so unclear about
11 what had taken place on the police attendance, because,
12 you know, the first thing you're going to get is a
13 question about that or question about that, quite
14 rightly so, because that's what I would want to do if
15 I was there. So it was, right, pass the death message,
16 try and get identification with a view to then passing
17 the further information about the contact and the police
18 involvement.

19 Q. So you weren't aware of the extent of the contact, who
20 did what, that type of thing?

21 A. Yes.

22 Q. What would have been wrong, however, in sharing with
23 ColletteBell that Mr Bayoh had been alive when
24 the police arrived at Hayfield Road, but then he had
25 become unconscious when the police were there? I mean,

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- 1 not going into the details of who did what or any of
2 that, but actually not mentioning any police contact.
3 I'm trying to understand why you wouldn't mention any
4 contact.
- 5 A. I think we could have. We should have. At that time,
6 we just didn't -- we didn't know how much information to
7 give and what to give and what was going to be accurate
8 and what wasn't. But I actually think what's right,
9 what should we have said to them, and I look at that and
10 think we should have said there was police contact and
11 the answer to that is I don't know what happened and,
12 you know, just be honest and tell them that.
- 13 Q. Do you think that would have helped -- what way would it
14 have helped if you had been honest and done the right
15 thing?
- 16 A. I just think it would have helped as the investigation
17 goes, because, you know, they have not told them at
18 10.45, or they never told Collette at that point, and I'm
19 thinking, "Right, it's going to come soon" and before
20 you know it, we're hours down the line and they have
21 still not got this information and you're like ...
- 22 Q. And looking back now, how do you feel about that?
- 23 A. Not great. It's not nice.
- 24 Q. So looking back now, with the benefit of hindsight, if
25 you could do it again, what information would you have

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1 shared with ColletteBell at that time?

2 A. I think I would have said to Colette, "There's been
3 a call to police, there's been some sort of contact, he
4 has gone unconscious, he has gone to the hospital and he
5 has passed away." You know, and then there would be
6 hundreds of questions on the back of that and you might
7 not be able to answer these questions, but I think
8 that's what -- if something similar happened next week,
9 that's what I would want to do.

10 Q. When you were thinking about delivering the death
11 message, you have mentioned earlier the FLOs and family
12 liaison officers can deliver a death message, what
13 consideration at that time did you give for just simply
14 waiting and leaving it to the FLOs?

15 A. Yes, we could have, but then we're then going to be
16 downstairs noting a statement in relation to a potential
17 missing person basically, knowing that -- I didnae think
18 he was missing, I thought he was at Victoria Hospital,
19 you know, and I just didn't think that was right.

20 Q. Can I ask you about the circumstances about the
21 statement taking from ColletteBell. So we have heard
22 evidence that after the death message was delivered,
23 they took -- the officers Parker and Mitchell took
24 a statement from her in the police office. Can we look
25 at paragraph 116 of your Inquiry statement, please.

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1 You see here:

2 "Looking back the question is whether that the best
3 time for this statement, giving bad news with a child,
4 she's never going to be happy, but is she ok to give
5 information that is important to the enquiry at that
6 point. Normal practice varies from case to case. If
7 they can physically and mentally give a statement then
8 it's good to get that information."

9 Was there a particular reason that a statement
10 should have been taken after -- shortly after the death
11 message was relayed to ColletteBell?

12 A. You can capture a lot of information that would help
13 drive the enquiry, so that's why we would try and
14 capture information if we can, you know, the timeline,
15 so we can then try and work out, you know, what's
16 happened and try and do that.

17 Now, I have asked -- I did ask for that, because
18 I was trying to get things -- get things continuing
19 moving at that point. Could it have waited? Yes. But
20 again, we got information from Collettethat helped then
21 push on what we were trying to do.

22 Q. Have you heard or listened to any of the evidence from
23 ColletteBell?

24 A. No.

25 Q. And we heard evidence that she was deeply upset

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1 obviously having had the death message relayed to her.
2 She was with her baby and her mother, and I think
3 summarising, if I may, that that was a difficult
4 experience for her, being asked to give a statement
5 straightaway. And there's a statement available for the
6 Chair that says perhaps that was insensitive to take
7 a statement at that time in an interview room.

8 Again, looking back now, was there anything you
9 would do differently?

10 A. A police interview room is never a nice area for someone
11 who has just had a message like that, you know, it
12 wasn't a great location. Could we have picked a -- is
13 there a soft suite -- you know, we have a soft suite in
14 a different station. Now if that was to happen again,
15 I would try to use that, a bit more comfortable for
16 them. I would still try and get information, I have to
17 be honest, I would try and get that, but if the person
18 doesn't want to do it or is not capable of doing it, you
19 don't force them to do anything, but I would still try
20 to get information if I could.

21 Q. And how do you explain to people that you're not forcing
22 them to give a statement if they're not able to do that?
23 How would officers explain that?

24 A. You would just judge the circumstances as you're
25 speaking to them. You would know when you're sitting in

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1 a room, you know, is this person coherent, are they
2 speaking okay, are they going to be able to tell us how
3 they are and a lot -- because a lot of times when you
4 pass the death message, people go into, you know,
5 autopilot. They're good -- not good, but they can give
6 you precise information and they want it done, you know.
7 Some people want to give that information.

8 Q. You mentioned a soft suite --

9 A. Yes.

10 Q. -- that was available. Can you explain a little bit
11 more about that?

12 A. That's only more recently that we have developed a room
13 at a police station in Fife, which we use for soft
14 suite, which is for -- a lot of the times it's for
15 survivors of sexual offences when they come in to speak
16 to the police. Now, that's what it's for, but say if
17 I had the situation again and we're going to a police
18 station saying, "Use that room", it's basically like
19 someone's living room and it's a much nicer setting.

20 Q. Is it a more comfortable surrounding?

21 A. Yes. There's couches, there's tea, coffee, there's
22 a toilet nearby. That would be better.

23 Q. When you -- you have said that you wanted the statement
24 taken, was there any instructions given by you that day
25 to DC Parker or Mitchell about the type of questions

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- 1 they should ask, maybe lifestyle questions that should
2 be asked?
- 3 A. I don't remember going into detail of what to cover. It
4 would be a general statement in relation to Mr Bayoh and
5 the circumstances of leading -- in particular, leading
6 up to, you know, the circumstances where we found
7 ourselves that day.
- 8 Q. All right. You have mentioned Mr Saeed, Zahid Saeed.
9 How was it his name became known to you as part of your
10 investigation? You have mentioned him in your daybook
11 notes?
- 12 A. Yes, I think that come from Colette.
- 13 Q. So we have heard evidence from Collettethat he had
14 called her in the morning and after that call, she had
15 gone home to check on the position and then phoned
16 the police.
- 17 A. Okay.
- 18 Q. Do you remember when you received his name and who from?
- 19 A. It's in the daybook, which is 01066, the page that
20 starts with --
- 21 Q. So that's your first page in your daybook.
- 22 A. Yes.
- 23 Q. And I have lost it on the screen.
- 24 A. So it's on the screen, top right of the page.
- 25 Q. Top right, yes. So there's some words underlined on the

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1 right-hand page --

2 A. "Unsure time", that says.

3 Q. "Unsure time", and then we see "Zahid" and then just an
4 arrow and it says, "Saeed"?

5 A. Yes.

6 Q. And that was information from ColletteBell?

7 A. Yes.

8 Q. And I think earlier you said that was information you
9 probably noted during a call from her home by one of the
10 officers?

11 A. Yes.

12 Q. And then you said in brackets "Spoke to him" or "speak
13 to him", is that what it says?

14 A. It looks like, "(Spoke to him - racist)".

15 Q. Do you remember if you had a telephone conversation with
16 Zahid Saeed at a later point that morning?

17 A. I did, because I've read my statement, but I don't
18 remember it.

19 Q. Let's look at PIRC 136, so I think this is your 4 May
20 statement, and it should be page 2, paragraph 5. So
21 this is a statement you prepared the morning after and
22 you say here:

23 "I thereafter made telephone contact with witness
24 Zahid Saeed on his mobile telephone ... to confirm his
25 welfare and current location. I explained to witness

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1 Saeed that we were concerned for his friend ... and that
2 the police required to speak to him. Witness
3 Zahid Saeed confirmed that he was within his home
4 address ... and he would wait at the address for
5 police officers to arrive. During the conversation
6 Zahid Saeed confirmed that he had been in the company of
7 deceased earlier that morning at a friend's address ..."

8 And that was Martyn Dick and Kirsty MacLeod's home
9 address:

10 "He also confirmed that he had been involved in an
11 altercation with deceased within his home address at
12 Arran Crescent. I did not get specific details from
13 witness Zahid Saeed at that time."

14 So this was a telephone call that you made to
15 Zahid Saeed on the morning of 3 May.

16 A. Yes.

17 Q. And where was he, as far as you were aware, when you
18 spoke to him on the phone?

19 A. Well, the statement says that he was at his home
20 address.

21 Q. His home address. And which officers did you send out
22 to Zahid Saeed?

23 A. I don't know off the top of my head what officers went
24 to speak to him.

25 Q. But speaking to him was a priority action?

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- 1 A. Yes.
- 2 Q. And did you send officers to go and collect him?
- 3 A. Yes.
- 4 Q. You don't remember what the address was, or the area, or
5 the town or any of that?
- 6 A. No, I can't remember.
- 7 Q. And how long was that conversation?
- 8 A. I don't know, because I actually don't remember the
9 conversation. I only remembered it when I went to read
10 my statement again.
- 11 Q. Do you now, today, have any recollection at all of that?
- 12 A. I feel like I should, because it's quite an important
13 thing, but on that day, we were doing a lot and then
14 I just -- I don't remember speaking to him and I don't
15 have any notes in my book either, ey.
- 16 Q. So there's no record of it in your daybook that would
17 help you?
- 18 A. No.
- 19 Q. And if it wasn't for this entry in your statement, you
20 don't have any recollection at all?
- 21 A. No, I don't remember it.
- 22 Q. Do you remember Zahid Saeed at some point coming to
23 Kirkcaldy Police Office and speaking to officers there?
- 24 A. I don't know if he come to Kirkcaldy or not. The
25 officers were asked generally to take them to a police

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1 station, so I don't know if that was done in the town
2 that he was in.

3 Q. Do you have any recollection of his involvement that
4 day?

5 A. No.

6 Q. Is there anything in your daybook that would help you
7 with that?

8 A. No, I -- no.

9 Q. No. Can I ask you in terms of thinking about priority
10 actions, you have talked about the identification of the
11 male at Victoria Hospital and Samantha Davidson going to
12 carry that out, you have talked about Zahid Saeed being
13 a priority and Martyn Dick being a priority. Can you
14 explain why speaking to Zahid Saeed, for example, was
15 a priority and actioned before the next of kin, the
16 family, Mr Bayoh's sister, was told about his death?

17 A. At the time we done that, passing that message, I was
18 thinking that Collette is the next of kin at that point,
19 and then I moved on to these other actions, and it was
20 only until later in the day when I was contacted and
21 said, "Listen, look", extending the next of kin
22 effectively to include closer family relatives.

23 Q. Now, there's some references in your daybook to
24 Kadi Johnson?

25 A. That's right.

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1 Q. When did you first become aware that there were other
2 family members that would be next of kin?

3 A. That was later on in the day when I was asked to pass
4 a further message to effectively ...

5 Q. Who asked you?

6 A. I don't know, because I don't know who has given me the
7 note and I don't know whose writing was on that note.

8 Q. Is this a note that -- you mean there's writing in your
9 daybook that isn't yours?

10 A. Yes, that's -- I stapled something into my daybook
11 with --

12 Q. You have described a list of officers that you didn't
13 know.

14 A. That's it, yes.

15 Q. Can you tell us what page you're referring to?

16 A. So it's 01072.

17 Q. So this is the final page prior to the Tuesday, 5 May
18 entry.

19 A. Yes.

20 Q. 072. And we see here, as you say, there's no lines on
21 that sheet of paper.

22 A. That's right.

23 Q. It says:

24 "-- Sister. [Next of kin]
25 -- Kadi Johnson."

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- 1 A. Yes, that's correct.
- 2 Q. Were there no previous references to a sister
3 Kadi Johnson at all?
- 4 A. I've got an earlier -- not an earlier note, because see
5 I have stapled that in my book at the end of the day,
6 okay, so the mention I've got in my book, "Kadi Johnson,
7 next of kin, sister, 15.10 hours", so that's when I was
8 aware at that point.
- 9 Q. What page is that that you're reading out from?
- 10 A. Sorry, that's page 01070.
- 11 Q. 70, please. Yes, so if we look at the left-hand side,
12 we see at the top "Kadi Johnson":
13 "[Next of kin] sister. 1510 hours."
14 And we have heard that the death message for the
15 Johnsons was delivered at roundabout that time in the
16 afternoon, so you were aware by that time that there was
17 a sister?
- 18 A. Yes.
- 19 Q. ColletteBell gave evidence that she had mentioned the
20 sister when she was in Kirkcaldy Police Office in the
21 morning after the death message had been delivered to
22 her and that that was shared with the police at that
23 time. Had you had that information shared with you at
24 that time?
- 25 A. I don't know.

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- 1 Q. You don't know?
- 2 A. I don't know, sorry.
- 3 Q. Have you got any entries in your daybook that would help
4 you to recollect that?
- 5 A. I don't have any other entries and this is the first
6 entry in relation to family.
- 7 Q. And can you tell us from page 70 when you made that
8 entry about Kadi Johnson?
- 9 A. I think that was at 1510 hours. I think -- I've got
10 "[Next of kin] sister. 1510 hours", so whether that's
11 at the time that the officers delivered the message or
12 whether that's the time I have recorded, I can't say
13 that for certain.
- 14 Q. So is it possible that this entry in your daybook was
15 recorded after 1510 on 3 May?
- 16 A. Yes.
- 17 Q. Can you think of any reason why, if ColletteBell shared
18 information with the officers in the morning about the
19 existence of Kadi Johnson and being Sheku Bayoh's sister
20 and next of kin, that that wouldn't have been shared
21 with you?
- 22 A. I don't know. I don't know if it was shared with me or
23 if it was shared with me if I have passed it on or not,
24 I genuinely can't remember.
- 25 Q. If you had had information in the morning about a next

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1 of kin, would you have made arrangements about
2 delivering a death message to them?

3 A. I certainly would have passed that up the line
4 management to say, "Right, okay, what are we going to
5 do?" But my memory of this is they approached me about
6 the next of kin at that point, ey. And when I say
7 "they", I don't know who. The information had come to
8 me to go and get this message passed. And then just
9 underneath there, there's some writing. I think that's
10 an update I've got from Mitchell and Parker where it
11 says:

12 "10 pm at her house.

13 Drinking at that time, Zahid Saeed left ..."

14 So I think that's potentially information that
15 Mitchell and Parker have passed to me after that message
16 has been passed.

17 Q. Can we look briefly at page 69, the PS01069, so this
18 will be the page immediately prior to this, because
19 I think earlier you were talking about -- so this page,
20 69, is Kirsty MacLeod, there's information about -- you
21 have already described it to us about a fight, watching
22 a fight at Martyn Dick's house.

23 Then, at the end, it says, "Zahid" -- can you read?

24 A. "Zahid follows" and then an arrow, and then "Martyn" and
25 then an arrow, and then, "'Help me' text".

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- 1 Q. Where was that information coming from?
- 2 A. I think that's come from Kirsty MacLeod to the officers
3 that have been speaking to Kirsty MacLeod and that's
4 what I've been given in an update.
- 5 Q. And then if we turn back to 70, please, which is the
6 equivalent of the next page in your daybook, we then see
7 "Kadi Johnson" listed there. Does that help you to
8 recollect where that information came from?
- 9 A. Unfortunately, it doesn't, no.
- 10 Q. Earlier today, you were talking about your concerns
11 about the delay between sharing the death message with
12 ColletteBell and not sharing with the sister. As
13 I understood you, you were saying you were aware that
14 there was a delay during that time, although what you're
15 saying now is you're not sure when you found out about
16 the sister?
- 17 A. I don't know when I found out about the sister, but
18 I remember thinking we've got to get information out
19 there in relation to -- well, the police contact and the
20 confirmation of his death.
- 21 Q. Right. So were you aware in the morning that there were
22 other family members?
- 23 A. I don't remember.
- 24 Q. You don't remember.
- 25 A. Sorry.

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1 Q. Can we move on to Martyn Dick's house. You have noted
2 that Martyn Dick was a priority action.

3 A. Yes.

4 Q. And we know, we have heard evidence Martyn Dick wasn't
5 at Hayfield Road. So on the Sunday morning, he was at
6 home with his then partner, Kirsty MacLeod, now his
7 wife, and that we have heard evidence that Mr Bayoh had
8 been at his house the night before watching a boxing
9 match, which I think you have referred to in your notes
10 in the daybook.

11 He has given evidence that four crews turned up at
12 his house and I wonder if you could explain why four
13 crews were sent to Martyn Dick's house?

14 A. Four crews, you mean four police vehicles?

15 Q. Yes.

16 A. I actually don't know who went to Martyn Dick's house.
17 I would have to --

18 Q. All right. Can you tell from your daybook?

19 A. I don't think I've got identified who went to what
20 address. No, I have just got the list of the officers,
21 so I'm actually unsure who went to Martyn Dick's
22 address.

23 Q. Right. Thinking back now, can you explain why there
24 would have been four crews sent to his address?

25 A. If there was potentially going to be more people at that

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1 address, you know, if there's -- certainly Mr Dick,
2 Ms MacLeod, there's two people at the address. I don't
3 know if there was any other people at that address that
4 were traced. I genuinely don't know.

5 Q. The evidence we have heard is there wasn't anyone else
6 at the address.

7 A. Okay.

8 Q. I'm just wondering if you had an awareness as you were
9 helping with that part of the investigation.

10 A. I remember asking officers to go to that address. Who
11 they were, I don't know, I don't remember exactly who
12 the officers were who done that and I don't know how
13 many attended at the address.

14 Q. Did you have any concerns at that time that would have
15 merited sending four crews?

16 A. No.

17 Q. No. We have heard evidence from a DC Bellingham who is
18 one of the names on your list.

19 A. Okay.

20 Q. And he wondered if one of the possibilities was maybe
21 concern for officer safety. He didn't know, but he said
22 that could have been one of the possibilities. Are you
23 aware of any concerns that you had at the time?

24 A. I can't think of any reason -- you know, officer safety,
25 you think about all the time, it's natural you would do

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1 that, but there was nothing that was known on that
2 day -- to me anyway -- in relation to sending officers
3 to that address that would raise it.

4 Q. DC Bellingham said it would have been the SIO who was
5 responsible for the decision to send crews to
6 Martyn Dick's house. Is that correct, or would it have
7 been your responsibility?

8 A. The decision to actually go to that address would
9 ultimately sit with the SIO, you know, who would tell
10 me, "We need to go and get these witness statements", or
11 whatever, so that would be for me to say to the
12 officers, "Right, let's get up to that address". So
13 I suspect that's probably come from me during the time
14 that I have spoken to them.

15 Q. Right. Do you remember why there would have been a need
16 to seize Martyn Dick's house, or to secure that house?

17 A. I think by this point there was a suggestion that there
18 may have been drugs consumed, or there's a reference to
19 drugs. So, you know, a consideration is: has something
20 that he has potentially consumed caused his death? So
21 I think that would be the route they were going down in
22 relation to Mr Dick's address, if he has been at that
23 address and there's a concern that he has potentially
24 used drugs there.

25 Q. And if he had consumed drugs there, how would seizing

Transcript of the Sheku Bayoh Inquiry

- 1 Martyn Dick's house have assisted the investigation?
- 2 A. Well, if you were to do a -- eventually -- if the
3 decision was made -- I don't know what happened at
4 Mr Dick's house, but consideration there may be
5 examination of that property or address.
- 6 Q. And again, in relation to searching Martyn Dick's house,
7 what would the rationale be for searching his house?
- 8 A. Searching it when the officers went out?
- 9 Q. So officers would go out to Martyn Dick's house, seize
10 or secure that house and then there would be a search
11 carried out on that house. Was that something that you
12 were involved in instructing?
- 13 A. As far as I'm concerned, there wasnae a search done when
14 I was involved that day. It was a case of "Let's try to
15 secure this scene should they be required for any sort
16 of examinations".
- 17 Q. So you weren't party to any decision-making about
18 searching Martyn Dick's house?
- 19 A. Not in terms of -- if there were searches took place,
20 I wasn't involved in that.
- 21 Q. That wasn't you. And as far as you are concerned, were
22 you aware of any connection between Martyn Dick's house
23 and the events of Hayfield Road that would have merited
24 seizing and searching that house?
- 25 A. At that time, you just don't know what's caused Mr Bayoh

Transcript of the Sheku Bayoh Inquiry

- 1 to pass. So, for me, if there's a chance that that's
2 connected, it means you gather that and then you can
3 discount it if that's not the case.
- 4 Q. Were you party to any decision to have clothing seized
5 from Martyn Dick or his partner Kirsty MacLeod?
- 6 A. I have an entry in my book at some point, which is 1070.
- 7 Q. Thank you, that's the one we have on the page -- on the
8 screen, sorry, and we see references to Martyn Dick on
9 the right-hand side. Do you want to read that out for
10 us?
- 11 A. Yes, so it's:
- 12 "Martyn Dick - DNA sample -- where is clothes.
13 Zahid Saeed - FME/clothing DNA samples and DNA swab.
14 Kirsty MacLeod -- DNA sample."
15 And then underneath, it says:
16 "Deceased - Sheku Bayoh."
- 17 Q. Can you explain to us why DNA samples were taken from
18 Martyn Dick?
- 19 A. DNA samples are quite commonly taken from people if
20 the police are seizing productions in an investigation,
21 for example, a jumper, and it goes away to the forensic
22 lab and it gets tested, you would have to test whose DNA
23 is on that and that sample is used to eliminate or to
24 identify whose DNA is on a particular item or
25 production.

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- 1 Q. Why would it help the investigation to eliminate
2 Martyn Dick's DNA from any item seized?
- 3 A. So if Mr Bayoh -- his clothing that he was wearing on
4 that night, if he has been in close contact with
5 Mr Dick, ie sitting next to him on the couch, sitting
6 next to him, touching him or anything like that, when it
7 would be examined by the scientist, they could then say,
8 "That DNA relates to Mr Dick", so that would be -- it's
9 fairly routine to get that.
- 10 Q. And how would that help the investigation into
11 Mr Bayoh's death?
- 12 A. Well, you've got to think depending on what caused
13 Mr Bayoh's death, that may -- because we didn't know at
14 that stage, so if you're going to be getting examination
15 done on his clothing and everything like that, you need
16 to try and rule out all these different sources of the
17 evidence. So that's why we would try and capture that.
- 18 Q. And so was that also the reason why you took DNA from
19 Kirsty MacLeod?
- 20 A. Yes.
- 21 Q. And Kirsty MacLeod has provided a statement to the Chair
22 saying that she was told her DNA would need to be taken
23 to eliminate it, because she had cuddled Sheku Bayoh the
24 night before. Does that make sense to you?
- 25 A. It does, because that shows that she has been in close

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1 contact with Mr Bayoh and perfect example is her touch
2 DNA may be on his clothing.

3 Q. And why would it be important to exclude
4 Kirsty MacLeod's DNA from any items recovered from
5 Mr Bayoh after his death at Hayfield Road, or as
6 a result of the events there?

7 A. Because depending on the cause of death for Mr Bayoh,
8 you would then effectively have some sort of forensic
9 strategy meeting potentially and then say, "Right, what
10 are we going to do with this clothing?" If that was
11 going to be an important part of, you know, how he died.
12 So you would be trying to get the DNA from people who
13 have been in contact with him to effectively -- so you
14 have not got effectively an unidentified DNA on a bit of
15 clothing, a stranger effectively. You would know who
16 that person relates to.

17 Q. All right. Can we look at paragraph 149 of your Inquiry
18 statement, please. This is -- you will see where this
19 comes in the Inquiry statement, it's after you have been
20 talking about DNA samples and such-like and you say at
21 149:

22 "I would've spoken to Colin Robson about this.
23 I would've spoken to him about this and noted what we
24 needed to do with the DNA samples. DNA we would quite
25 often get when someone dies or passes away. If any

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1 productions are sent further down the line then we'd see
2 what DNA is for who. Yeah you would ask them for
3 a sample and take a swab from the inside of their mouth.
4 That would be used for comparison with any productions
5 that were seized."

6 So when did you speak to Colin Robson about the DNA
7 and the possible swabs?

8 A. I don't remember speaking to Colin Robson about that,
9 but I'm saying I would have, because it's generally
10 something that you would discuss with the SIO to make
11 sure that you have an agreement what you're going to be
12 doing with that.

13 Q. And who gave the instruction to recover these samples
14 from Mr Dick and Ms MacLeod?

15 A. I don't specifically remember getting an instruction to
16 do that, but it's in my book there. It's certainly
17 something that I would have discussed and confirmed
18 before we would be doing that.

19 Q. All right. What was the authority that the officers had
20 to take the DNA sample from Mr Dick or Ms MacLeod?

21 A. That would be consent definitely.

22 Q. And you have already given evidence about how you would
23 like -- how best practice obtaining consent can be --

24 A. Yes.

25 Q. -- demonstrated in a notebook with a signature?

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- 1 A. Yes.
- 2 Q. Were you aware of whether consent was obtained from
3 Mr Dick or Ms MacLeod?
- 4 A. I've never checked it, I don't know.
- 5 Q. Is there any obligation on possible witnesses to give
6 consent to give a sample?
- 7 A. No.
- 8 Q. If they had withheld their consent for any reason would
9 you have had grounds for a warrant?
- 10 A. I don't think so, at that stage, no.
- 11 Q. And I think in paragraph 150 you explain that you did
12 not seek a sample, a DNA sample from ColletteBell:
13 "If this was happening again tomorrow I would ask
14 for DNA from ColletteBell."
15 And you would want that and again you repeat that
16 consent is the basis for taking a sample like that. So
17 you would actually ask ColletteBell for a sample?
- 18 A. I would, but I don't know if the timing in relation to
19 she has just had a death message, whether you would do
20 it at that point, but you would want to collect that, as
21 you would with all these other people.
- 22 Q. I'm conscious of the time, but I just have one or two
23 other questions to complete this section. We have heard
24 that officers' DNA wasn't required or requested because
25 their DNA is held, is that correct?

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1 A. I think when we join, we give our DNA.

2 Q. Right. And we may also hear further evidence that in
3 terms of post-incident procedures, that it is an option
4 to consider taking DNA from officers. Were you party to
5 any discussions with DI Robson that day about whether or
6 not to take DNA from officers?

7 A. No, I wasn't involved in any of the officers' side of
8 it.

9 Q. Or any samples from officers?

10 A. No.

11 Q. And there's nothing in your daybook that would indicate
12 that was something that was considered, or discussed
13 with you?

14 A. Not involving me.

15 MS GRAHAME: All right. Thank you very much. I'm conscious
16 it's just 3 o'clock.

17 LORD BRACADALE: Yes, thank you. I should explain that in
18 order to give the stenographer a short break in the
19 afternoon, we're going to stop around 3 o'clock each day
20 for 15 minutes and then we will sit on until 4.15.

21 (3.03 pm)

22 (Short Break)

23 (3.20 pm)

24 LORD BRACADALE: Yes, Ms Grahame.

25 MS GRAHAME: Thank you. Could we turn to paragraph 153 of

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1 your Inquiry statement, please. You will see that this
2 begins a section where you are asked about Zahid Saeed's
3 address. We will get this on the screen and it says --
4 there's a redaction, but you're talking about
5 Zahid Saeed's address:

6 "I don't know who else lived at the property.
7 I know there was other people at the property.
8 I remember when they were securing the house there may
9 have been a relative in a wheelchair. So one of the
10 things that came up with that. I don't know what
11 officers were involved at that address. It would've
12 been the same procedure as the earlier addresses."

13 And then at 154, you say:

14 "Again, because no feedback from occupants and
15 difficulty, I assumed we have consent to seize the
16 property."

17 So as I understand the position, there was an
18 instruction relayed by you, on behalf of the SIO, to two
19 officers to attend this property and there was an
20 indication from you at that time that you didn't
21 actually think there was anyone in the address. Do you
22 have any recollection of that?

23 A. Where have I recorded that?

24 Q. This is a question that I have been provided with by
25 some of the core participants to ask you and there's an

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1 airwave transmission, which I don't think we have on the
2 playlist for today, it's PS01194. And you relay
3 instructions from the duty SIO to two officers to attend
4 and you indicate that you didn't think there was anyone
5 at that address, so it was just about securing the
6 property. Do you have any recollection of that?

7 A. No.

8 Q. No? Do you know -- I mean, you had obviously identified
9 Zahid Saeed as a priority action. Your statement --
10 your operational statement noted that you had
11 telephoned -- made telephone contact with him.

12 A. Yes.

13 Q. You have explained already today that you didn't have
14 much recollection of that actually --

15 A. No.

16 Q. -- until you had read the operational statement.

17 A. That's right.

18 Q. And you have not really been able to help us with the
19 details today about what happened during the day
20 regarding Zahid Saeed, but as part of your memory and
21 your recollection of events now, do you remember knowing
22 anything about that address or the arrangements made for
23 that address or to seize it?

24 A. I don't. I just remember about contacting about there
25 was an issue in relation to someone with wheelchair

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1 access at the address. That was one of the things that
2 stuck in my mind, but they managed to resolve it.

3 Q. Right. You mention that in paragraph 155 that you
4 managed to resolve it. How was it resolved?

5 A. I genuinely don't know. I can't say.

6 Q. Were you involved in resolving that issue?

7 A. No. The officers who were at the address, I believe
8 managed to sort that.

9 Q. And was that the information that they shared with you,
10 that they had had an issue but they had sorted it?

11 A. Yes, my memory is -- and I actually can't even remember
12 who it was that went to that address, but I just
13 remember that there was an issue with the mobility of
14 one of the occupants and then the next message was,
15 "It's fine, we have managed to resolve this".

16 Q. And is that really the extent of your memory today?

17 A. Yes.

18 Q. Right. And then at paragraph 160, if we can briefly
19 look at that, you are talking about the house was being
20 seized because it's where Zahid Saeed went afterwards
21 and he had gone there post contact with Mr Bayoh:

22 "To be honest, on the day we never done anything
23 with that house. That was one I did speak to Colin
24 Robson about, one that the instruction was to get that
25 house. In terms of what we were going to do with that

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1 house I don't know what they were going to do and what
2 they did do."

3 Tell us when you had that conversation with Colin
4 Robson?

5 A. I do remember this and, you know, I'm saying there
6 that's when I did speak to Colin Robson about --
7 I believe I spoke to Colin about all of these, but
8 this -- because it was slightly later in the day that we
9 got that and I remember thinking, "Oh, are we getting
10 that house as well?" And it was probably one that maybe
11 I didn't really think about at the time, but he come in
12 and said that it was an address that we were looking to
13 secure for potential examination.

14 Q. When you say you didn't think about it at the time, what
15 do you mean by that?

16 A. Well, it's one that -- it's one that -- I have not
17 routinely thought about that at that point, but maybe
18 I should have.

19 Q. Was this one of the addresses that you had on your list?

20 A. I think it was actually. I think it might have been.

21 Q. If we go back to your daybook for a moment --

22 A. Yes.

23 Q. So maybe was it 67 or 68?

24 A. Sorry, it was 68 in the right-hand side.

25 Q. And you had your list of addresses.

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1 A. Yes.

2 Q. And then it says, "Zahid Saeed", and it gestures to
3 "Saeed home address".

4 A. And it has got "dash home address", yes.

5 Q. Now, we may have some evidence in terms of written
6 statements that Mr Saeed was later taken to a property
7 in St Andrews, but there was also a property in the
8 Kirkcaldy area. And I'm wondering from what you
9 remember now, was it a different address from where he
10 lived to his parents, or -- do you know anything about
11 that at all?

12 A. I don't remember it.

13 Q. You don't remember?

14 A. No.

15 Q. Is there anything in your daybook notes that would help
16 you remember when you had this conversation with Colin
17 Robson?

18 A. No, sorry, there isn't.

19 Q. And you say this is one you did speak to Colin Robson
20 about. This is in paragraph 160 and tell us why that
21 was one that you spoke to Colin Robson about?

22 A. I -- I'm certain that we spoke about all of these
23 properties, but this -- I remember at some point
24 DI Robson saying to me, "They're looking to get that
25 address as well", and it just -- for some reason it

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1 sticks in my head.

2 Q. Right. We have discussed this earlier today, but we
3 have heard evidence that it wasn't simply a mobility
4 issue and a wheelchair issue, that there was equipment
5 in the house, that the gentleman who was disabled had
6 a brain injury and was a quadraplegic and had mental
7 health issues as well and needed significant care.
8 Do~you remember anything about that?

9 A. Sorry, no.

10 Q. Was any of that shared with you by the officers?

11 A. I don't remember anything to do with that.

12 Q. Right. Was that any part of your discussion with Colin
13 Robson that day?

14 A. No.

15 Q. Can I move on to the afternoon. We have touched upon
16 the death message to Kadi Johnson and we have heard
17 evidence from Kadi Johnson about the delivery of the
18 death message by -- and again, it was Mitchell and
19 Parker who attended.

20 And could we look perhaps at PIRC 136. So this is
21 your first statement, 4 May, page 2, paragraph 7. And
22 if we have that on the screen, you will see here that it
23 says:

24 "About 1510 hours ... I instructed DC Mitchell and
25 DC Parker to attend at the home address of deceased

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1 sister Kadi Johnson to formally deliver the death
2 message to the family. Identification of the deceased
3 had been confirmed by DS Davidson. The officers were
4 instructed to deliver the message and inform them that
5 a family liaison officer would later be in contact to
6 note full details from the family. Following the
7 delivery of the message I was informed senior management
8 would like to attend at locus to visit the family.
9 I requested that DC Parker and DC Mitchell return to
10 locus to clarify if they would like to be contacted
11 further."

12 So we have heard that there was an initial visit by
13 Mitchell and Parker to the Johnsons' house and you have
14 noted that as being about 10 past 3 in the afternoon.

15 A. That's correct.

16 Q. From your memory now of the events, was there any
17 alteration to the instructions to Mitchell and Parker
18 about the death message that was to be delivered?

19 A. The only difference at that stage was that we now had
20 confirmation that it was Mr Bayoh.

21 Q. Right. So the identification had been firmed up
22 compared to when it was delivered to ColletteBell?

23 A. Yes.

24 Q. And so if DC Mitchell has said there was no separate
25 death message prepared for this first visit to the

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1 Johnsons, there would be no change effectively, would
2 you agree that that was correct?

3 A. There was -- the change was that it was Mr Bayoh, where
4 the earlier message was that we thought it was Mr Bayoh.

5 Q. Right. And in terms of that first death message
6 delivered to the Johnsons, looking back now, how happy
7 are you with the information that was shared with them?
8 You're shaking your head.

9 A. Yes. We should have given them more. We should have
10 been -- we had passed that death message because FLOs
11 were going to come in later on and provide that
12 information, but that should have been done.

13 Q. So again, just for their benefit, what sort of
14 information -- looking back now -- do you think you
15 should have shared with them?

16 A. Very similar to what I said in relation to telling
17 Collette earlier on, that there had been police contact,
18 there had been calls to the police and even by that time
19 we might have known a bit more information, more
20 specifics about what had taken place. So yes, I think
21 that could have been delivered at that time.

22 Q. Thank you. We have then heard and you mention in your
23 statement that there was contact between you and
24 DC Mitchell and DC Parker about them returning for
25 a second visit. Can you tell us a little bit more about

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1 what you remember about that? The discussion you had
2 with them.

3 A. The exact timeline of this, I cannae give you, for
4 certain, okay, but I remember them coming back to me and
5 basically being -- they were almost like in shock, ey,
6 because they were clearly getting asked hundreds of
7 questions, quite rightly so. And I remember sitting
8 going, you know, "We're going to have to give more
9 information". So, at some point, I ended up -- I don't
10 know where Colin Robson was, but I ended -- I went to
11 what was the old gym hall at Kirkcaldy Police Station,
12 chap at the door where the management was, and I had
13 said -- I says, "Officers have passed the death message,
14 we need to give something" or "What do you want us to
15 tell them?" is what I said. And, at that time,
16 I believe it was Detective Super says, "We will come
17 back to you shortly", and that's when I was then given
18 a form of words to pass.

19 Q. Do you remember what time that was?

20 A. It was after 10 past 3 and before 10 past 4.

21 Q. So during that window?

22 A. During that window, yes.

23 Q. And Mitchell and Parker had returned to Kirkcaldy Police
24 Office to speak to you?

25 A. I don't know if they returned or if they phoned me.

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1 I think it may have been a phone call and I just
2 remember going -- you know, they were clearly -- they
3 were put in a position where they didn't have
4 information to give the family and, you know, I remember
5 thinking to myself, "It wasnae fair to ask them to do
6 that."

7 Q. If Mitchell had said they did come back actually to
8 the police office, would you disagree with him?

9 A. No, I wouldn't disagree. I cannae say for certain
10 whether it was face-to-face or not.

11 Q. And you have said -- you have mentioned the gym hall.
12 Is that part of -- or was it part of Kirkcaldy Police
13 Office?

14 A. Part of Kirkcaldy Police Station at the time. It's an
15 old big hall at the top of the building where there were
16 a collection of different management.

17 Q. Right. Who was in the gym hall?

18 A. Definitely Detective Superintendent Campbell, because he
19 is the one that subsequently come out to me and there
20 were others who -- I don't know who they were.

21 Q. You don't know. But the person that spoke to you was
22 Detective Superintendent Pat Campbell?

23 A. He was the one that basically said, "Right, we will be
24 back to speak to you shortly."

25 Q. What was his role that day?

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- 1 A. He was the -- well, for me, he is the SIO's boss, so
2 Colin Robson would have linked in with the on-duty
3 detective superintendent. So he was effectively the
4 senior SIO is what I would call it.
- 5 Q. And the others in the room, although you didn't know
6 them, did you know what their positions were, what their
7 roles were?
- 8 A. There were a variety of different senior officers. It
9 was quite a -- my memory of it, there was quite a few
10 people in there and let's say -- I never went in for any
11 length of time. It was basically a chap at the door to
12 say, "Can we get this extra information out?"
- 13 Q. And you were given something by detective
14 superintendent?
- 15 A. Yes.
- 16 Q. And can we look at PIRC 136 again, please, and this time
17 look at the final paragraph on page 2, paragraph 8.
18 Then here it says:
19 "I subsequently contacted DC Mitchell by
20 telephone..."
- 21 Do you remember when that was?
- 22 A. I don't have a time.
- 23 Q. "... and ask that they provide ..."
- 24 A. Sorry, 1610 hours, "Statement to family provided to
25 DC Mitchell", it's in my book.

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- 1 Q. So that's when you called DC Mitchell?
- 2 A. Yes.
- 3 Q. "... they provide the following statement to the family
4 and that they would be contacted again later that
5 evening. The statement was ..."
- 6 And again, you've got this in quotation marks:
- 7 "... 'Following an incident this morning, in the
8 Hayfield Road area of Kirkcaldy, officers from
9 Police Scotland have been attempting to arrest
10 Sheku Bayoh, during which time he became unconscious,
11 conveyed to hospital by Scottish Ambulance Service and
12 despite best efforts by medical staff died shortly after
13 9am this morning'."
- 14 And that's end of quotation marks. Where did you
15 get this statement that is in the quotation marks in
16 your operational statement?
- 17 A. I was given that by the detective superintendent who
18 come down to the DC room that I was sitting in.
- 19 Q. And that was a handwritten note --
- 20 A. Yes.
- 21 Q. -- that was given to you. And this is different from
22 the earlier message that had been given to the Johnsons
23 by Mitchell and Parker?
- 24 A. Yes.
- 25 Q. And tell us, before I go into this, was Robson involved

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- 1 in any way with this communication between Detective
2 Superintendent Campbell and you?
- 3 A. I don't remember him being there when I was given the
4 note and I took it from the detective superintendent, so
5 whether he was informed by the detective super, I don't
6 know. I don't know if I have told him as well.
- 7 Q. Right. All right. And is this noted in your daybook as
8 well?
- 9 A. I have written at 1610 hours, "Statement to the family
10 provided to DC Mitchell", so I must have received that
11 shortly prior to me giving that message to DC Mitchell
12 to pass that to the family.
- 13 Q. Right. Now, we have heard from DC Mitchell that he, if
14 I can say, wasn't entirely happy with being passed this
15 second death message and he gave evidence that he
16 thought you weren't entirely happy, and you said
17 something along the lines of "You're not going to like
18 this". Do you remember that telephone conversation?
- 19 A. I remember phoning DC Mitchell and saying, yes, words to
20 that effect, because I was putting him back into
21 a really hard position.
- 22 Q. Why do you say that?
- 23 A. Because he's going to have to go back to a family who
24 have just been asking him so much information about
25 their loved one, to go back and to read three or four

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1 lines, which is going to lead to another 200 questions,
2 so they were in a hard position at that point.

3 Q. Why didn't you wait and leave it to the FLO -- the FLOs
4 or leave it to a more senior officer?

5 A. I -- well, I felt at that -- I felt at that stage that
6 the family should have been informed things, so I have
7 went up to that room to say my opinion of what I thought
8 and they have come back to me and said, "I think you
9 should say this". Now, you're not -- that information,
10 you know, I still think they needed to get, they did
11 need to be told.

12 Q. Right. So the priority there was to tell them?

13 A. Yes.

14 Q. Rather than to wait for someone else to do it?

15 A. You could have waited, but then we had waited for
16 a period of time, you know. How long do you delay that?
17 Maybe I'm wrong with that thought, maybe we should have
18 waited for the FLOs, but I deep down still think that
19 telling them was the right thing.

20 Q. All right. And can I ask you to look now, please, at
21 PIRC 137, so this is your statement from June, because
22 I would just like to ask you about what else was
23 happening at this time. And I would like you to look at
24 page 3, paragraph 1, and you say:
25 "After the first visit to ... the home of

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1 Kadi Johnson ..."

2 So it's at the top of page 3:

3 "... I was speaking to Chief Superintendent
4 Gerry ..."

5 I think we have heard his name is Garry McEwan:

6 "... in the corridor of Kirkcaldy Police Office when
7 I told him that the death message had been delivered to
8 the family. At this time he told me that senior
9 management would be visiting the family. I assumed it
10 would be him, he never confirmed he was going."

11 I'm trying to understand in terms of the chronology
12 of events, when you were speaking to Garry McEwan and
13 when you were getting the message from Detective
14 Superintendent Campbell.

15 A. I spoke to Garry McEwan in the corridor very briefly and
16 he had mentioned about the fact that the family were
17 going to go up -- and I actually thought, "Brilliant",
18 because I thought, "Great, you've got a person,
19 you know, to go there and to give this information", and
20 then there was a delay and then it was like it might
21 not -- it was maybe not going to happen. And it's
22 roundabout that time that I have went and says, "What do
23 I -- what are we going to say?" And then that's when
24 I got the note back after that.

25 So I don't know why -- I think they were going to

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1 visit, then they weren't going to visit, and then we got
2 a form of words and then they did visit after that.

3 Q. Right. So Mitchell and Parker deliver the first
4 message.

5 A. Yes.

6 Q. They return to Kirkcaldy Police Office.

7 A. Yes.

8 Q. You have a conversation with Garry McEwan at some point.
9 He is going to go and then you're not sure if he's going
10 to go.

11 A. That's right.

12 Q. At some point, Mitchell and Parker have been sent back
13 to the Johnsons to tell them that a senior officer is
14 going to come and visit them.

15 A. Yes.

16 Q. And then you make a phone call to DC Mitchell saying,
17 "There's another death message".

18 A. That's right.

19 Q. Is that right? I just want -- I don't want to put ideas
20 into your head, but --

21 A. No, I think that's -- I'm pretty sure that's the order
22 how it happened.

23 Q. That's the order it was happening. Is there anything in
24 your daybook that would clarify that or indicate that
25 that's not correct?

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- 1 A. No, I have not taken any notes in relation to my contact
2 with the Chief Superintendent at the time.
- 3 Q. Right, okay. But you have had a conversation with him,
4 Mitchell and Parker are on the way back, you phone
5 Mitchell and you give them the death message that you've
6 got from Detective Superintendent Pat Campbell.
- 7 A. Yes.
- 8 Q. And that's the death message that we have just read out?
- 9 A. Yes.
- 10 Q. That's the fuller death message.
- 11 A. Yes.
- 12 Q. Tell me what you thought of the wording of that death
13 message? So this is actually the third death message
14 that's been delivered that day, but the second to the
15 Johnsons. Were you satisfied with the wording of that
16 death message?
- 17 A. I was -- I was just relieved that they were actually
18 going to be getting some sort of information at that
19 point, so right, great, the information flow is going to
20 start for now, they're going to get that message and
21 then the FLOs can come in afterwards and then that could
22 be -- they could be then a good point of contact for
23 them afterwards.
- 24 Q. We have heard from -- let's have that message in front
25 of us. It's PS05793. I should have had this on the

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1 screen. I think this is a bit of -- we will see --
2 handwritten paper. Do you see that? Is that the
3 handwritten death message? "Statement for next of kin"?
4 A. Yes.
5 Q. "Following an incident this morning in the Hayfield Road
6 area of Kirkcaldy ..."
7 Do you see that?
8 A. Yes.
9 Q. If we go down the screen, you will see the full text.
10 A. That's right.
11 Q. That's the message you were given by Campbell?
12 A. Yes.
13 Q. And we have heard from DC Mitchell that he thought this
14 death message was too open, it lacked clarity and didn't
15 provide more detailed explanation and he thought the
16 family would, as he put it, "Kick off"?
17 A. I wouldnae say that. I would say that the message
18 there, it gave at least some information in relation to
19 what had happened that day, because by this point, as
20 far as I know, they still don't know what's happened to
21 their loved one at that point. So it's giving
22 confirmation that the police have been sent to a call,
23 officers have gone, attempted arrest, become
24 unconscious, conveyed to hospital and it's actually
25 telling you, you know, dying at the hospital -- or does

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1 it mention -- yes, conveyed to hospital by
2 ambulance service. So it does give some information.

3 Q. All right. So you were happier with that message?

4 A. I was certainly happy that they were given something.

5 Q. All right. And let's go back to your statement of
6 11 June, so this is PIRC 137 and this time I would like
7 to look at page 3, paragraph 2. This is where you were
8 talking about Chief Superintendent Garry McEwan,
9 paragraph 2:

10 "I spoke to him about what the family should be told
11 and he said that it would be an SIO decision. That's
12 when Pat Campbell got involved and he later handed me
13 the handwritten statement."

14 So was it Garry McEwan that told you it should be an
15 SIO decision?

16 A. I don't remember that now. I have only just read that
17 back. I remember speaking to him, but I don't remember
18 him saying to me what would be disclosed would be by an
19 SIO decision. I don't remember that.

20 Q. What was it that made you go to Pat Campbell about this
21 death message rather than Robson?

22 A. I have been thinking about that, because I have been
23 going to Colin -- DI Robson all day. I don't know where
24 he was, I don't know if he was in the room, I don't know
25 if there was a meeting. But, by that time, I'm speaking

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1 to Andy and Wayne, I can see how they are and how they
2 feel about what's -- how the family are feeling at that
3 stage, so that's when I'm really trying to push things
4 on.

5 Q. Right. We may hear from Detective Superintendent
6 Campbell that the form of words in this message were
7 discussed by him and Chief Superintendent Lesley Boal?

8 A. Lesley Boal.

9 Q. Was she in the gym hall, do you remember seeing her?

10 A. I don't know.

11 Q. And then let's look at page 2, paragraph 10. So this is
12 the final paragraph on page 2 of the same statement,
13 137. This is your PIRC statement of 11 June and if we
14 look at the final page -- final paragraph, it says:

15 "I previously gave instructions to DCs Parker and
16 Mitchell when they delivered the pre-prepared statement,
17 which in effect was the 3rd message."

18 ColletteBell's was the first and then --

19 A. Yes.

20 Q. "I knew that my detectives would get bombarded with
21 questions from the family on the back of this prepared
22 statement and I specifically told them not to answer any
23 questions directed at them as they were not in
24 a position to answer."

25 Can you give us a little bit more of an explanation

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1 there?

2 A. Yes. Andy and Wayne had -- were involved basically with
3 Collette and then the family that day, so they wouldn't
4 have been aware of all the other circumstances. So what
5 I didn't want was Andy and Wayne to be in a position,
6 a really hard position where they give a statement and
7 then straightaway, they're going to get questions and
8 for them to give wrong information or misinformation.
9 So I was like, "You have just got to -- this is really
10 hard, but to give the statement, to explain that the
11 FLOs will be coming and try not to be drawn into what
12 else may have happened or has happened or" -- because
13 they would not be the ones that knew that information
14 and could give accurate information to them.

15 Q. And would you expect them to comply with those
16 instructions that you have given?

17 A. Yes, yes.

18 Q. We have heard from DC Parker in evidence that it was his
19 view that as soon as the man was identified and there
20 was nothing else criminal established, no one else
21 involved, then the death -- involved in the death, that
22 it would have helped the family to get more information
23 and to be provided with some answers to the questions
24 effectively, if I can summarise it that way, and he
25 didn't think that would have impacted on the integrity

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1 of the investigation and the police wouldn't have lost
2 anything in giving the family more information.

3 Do you agree with that, at that stage, when that
4 second message is given to the Johnsons?

5 A. We didn't know what had caused the death of Mr Bayoh at
6 that point at all. And I think we could have given them
7 more information. Yes, I think we could have given them
8 more information. Specifically what, you would have to
9 be very certain as to what you're saying was correct and
10 factual to make sure that you're not misinforming them
11 and giving them wrong information.

12 Q. What's the danger of giving the wrong information?

13 A. Well, to then go back and tell them something different,
14 then they're going to say, "Well, what's right, what's
15 not right. What's fact, what's not fact?"

16 Q. What impact does that have on your work and your ability
17 to complete your work?

18 A. They will then start to question potentially everything
19 that you're saying and -- which is not what you want.
20 You want to have a good relationship with the family and
21 be able to give them precise updates.

22 Q. Was there any information at that stage that you gave to
23 Mitchell and Parker that referred to or used the words
24 "forceful arrest"? Do you remember those words being
25 used by you at any time?

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1 A. No. I take it that word is not in the statement either?

2 Q. It's not in the statement, no.

3 A. No, no.

4 Q. Okay. The second message did involve -- would you like
5 to have that back on the screen, the handwritten
6 statement?

7 A. Thank you.

8 Q. Yes, if we could do that, please. So this is PS05793,
9 so it's a handwritten version.

10 If I read it out:

11 "Following an incident this morning in the
12 Hayfield Road area of Kirkcaldy, officers from
13 Police Scotland have been attempting to arrest
14 Sheku Bayoh ..."

15 So there was mention of "arrest" there.

16 A. Yes.

17 Q. "... during which time he has become unconscious ..."

18 So there was mention in the statement of the word
19 "arrest". Was there anything -- when you shared that
20 statement with Mitchell, anything you said about the
21 word "forceful"?

22 A. No.

23 Q. Or force being used?

24 A. No, I read that out and made sure that he was writing it
25 down.

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1 Q. I would like to go back to asking about the FLOs and who
2 was appointing FLOs that day. We have touched on FLOs
3 and their potential involvement, but was Police Scotland
4 involved in appointing FLOs?

5 A. I don't know the answer to that, whether it was
6 Police Scotland or the PIRC. I do know there was talk
7 about appointment of FLOs, but where they were coming
8 from, I don't know.

9 Q. Who was talking about that?

10 A. That would have been mentioned by DI Robson.

11 Q. In the role that you were carrying out that day, would
12 you have expected to know more about who was appointing
13 family liaison officers?

14 A. Not necessarily. I don't think I would be -- you know,
15 you would expect it would happen at some point, but,
16 you know, I wasn't involved in that, no.

17 Q. Is there a particular person who is responsible for
18 appointing family liaison?

19 A. The decision for deploying a FLO would normally rest
20 with the SIO.

21 Q. Right. So looking at paragraph 95 of your Inquiry
22 statement, you talk about:

23 "... I remember being told FLOs would be involved in
24 liaison with Mr Bayoh's sister. I said that's fine but
25 asked if that a reason to delay FLO deployment. Later

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1 in the day a decision was made to give an initial
2 message before the FLO. There was a delay in getting
3 the expertise there to deliver the death message.
4 I remember saying we can't delay and wait for them to
5 come a long distance away to do that. That's why that
6 was then pushed on. The decision came from senior
7 management. My point of contact would've been Colin
8 Robson. It's through him that that would've been
9 confirmed. That was later in the day, not 10.45 am."

10 I just wonder if you could explain a little more to
11 the Chair about what was going on in relation to the
12 delay regarding the appointment of family liaison.

13 A. I remember sitting -- and the FLOs were mentioned quite
14 early on and you think, "Right, great", and then time
15 just keeps -- started to move and move and then they're
16 still not coming and then you can say, "Right, what's
17 happening?", "Oh, they're potentially coming from
18 elsewhere". And I just felt on that day, I thought
19 there was a delay in relation to getting the expertise
20 out.

21 Q. And can you help us understand what the -- how the FLOs
22 help. What benefit can they bring to this situation?

23 A. I'm not a FLO. However, FLOs for me, are deployed in
24 certain circumstances, things like child deaths,
25 unexplained deaths potentially, suspicious deaths,

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1 murders, and they're the direct point of contact and
2 normally remain that point of contact throughout an
3 investigation. I think they're good because it's
4 continuity, it's the same person that you speak to, you
5 can get a good working relationship with that person.

6 I have seen cases where FLOs end up going to
7 funerals and things like that, because there is a bond
8 created. So it is -- they've got training in relation
9 to -- no, actually I won't comment on their training,
10 because I don't know what the training involves for
11 a FLO, but they do attend a training course in relation
12 to family liaison, so ...

13 Q. So they have additional training and skills --

14 A. Yes.

15 Q. -- in relation to liaising with the family?

16 A. Yes.

17 Q. Can you explain to me, are they primarily to assist the
18 investigation or are they primarily to assist the
19 family?

20 A. I would say -- well, they're police officers and they're
21 there to gather information, but they're also good for
22 a family. So you could argue, what's more important?
23 But they are police officers, they're there to gather
24 information, they're the point of contact, but I think
25 it's good for a family when you have a FLO, so you don't

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- 1 get passed between contact centres and things like that.
- 2 Q. We have heard evidence from DC Parker that you asked him
- 3 to brief the FLOs at a meeting that day. Do you
- 4 remember asking Parker or perhaps Parker and Mitchell to
- 5 brief FLOs that day?
- 6 A. Now that you have said that, I think I do. I think
- 7 I remember saying to them -- I don't know what time the
- 8 FLOs arrived, but that would make total sense for me,
- 9 because if you're an officer who has spoken to that
- 10 family and can give an indication as to what they have
- 11 exactly been told, how that conversation has went and
- 12 what they're likely to face when they go there,
- 13 you know, I think that's a good thing. So that makes
- 14 total sense if Wayne said I did that.
- 15 Q. Do you remember when that happened?
- 16 A. No.
- 17 Q. Would your daybook help you?
- 18 A. I don't have anything in my daybook in relation to the
- 19 FLO deployments, if you're asking me to do that, but
- 20 it's just when you said that, I think -- I'm pretty
- 21 confident that did happen.
- 22 Q. And do you remember roughly when that briefing took
- 23 place?
- 24 A. No.
- 25 Q. Do you remember where it took place?

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1 A. No. I wasn't -- I wasn't present during any briefing
2 between the FLOs. I think I have probably just said to
3 Wayne, "You need to go there when the briefing is done".

4 Q. Who would have been arranging the briefing for the FLOs?

5 A. I don't know.

6 Q. Who would have been responsible for arranging the FLOs?

7 A. I suppose it depends at that point whether this control
8 is passed to the PIRC by this point or whether it was
9 Police Scotland. I don't know that.

10 Q. Do you know if these were police FLOs or PIRC FLOs?

11 A. No, I don't know.

12 Q. Do you know if those FLOs had contact with the Johnsons
13 or anyone?

14 A. No, I don't know.

15 Q. Do you know if there were ever FLOs put into place for
16 ColletteBell?

17 A. I don't know.

18 Q. You have said already that you didn't attend any meeting
19 between Mitchell and Parker and any FLO?

20 A. No.

21 Q. We may hear that there was another briefing for FLOs on
22 4 May, the day after. Now, I know you don't have any
23 entries in your day book for that date. Do you remember
24 being involved in any way with FLOs on 4 May or in
25 relation to a briefing for them?

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1 A. No.

2 Q. Can I ask you about something else, CCTV. Can we look
3 at your Inquiry statement, paragraph 53 please. It
4 says:

5 "I have been told there is audio of an Airwave call
6 I made ... I'm aware I made this call to the control
7 room. I have been told at 0:13 onwards I say: 'It's
8 basically we have CCTV recording in one of the vans that
9 is attending at the locus where the male has been found
10 dead after altercation with police officers. There is a
11 possibility that the CCTV in the van covered the
12 incident so the on-call Detective Super's asking for the
13 out of hours TSU or whoever can download that footage to
14 be called out, called to duty and do it ... They're
15 basically saying they need somebody out yesterday to do
16 it'."

17 I would like to ask you some questions about this
18 paragraph. First of all, do you remember what van you
19 are referring to there?

20 A. I think that's one of the Police vans that's attended
21 the scene.

22 Q. Do you remember anything more about the van?

23 A. No.

24 Q. How did you come to know that there was CCTV recording
25 in that van?

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1 A. I don't know that.

2 Q. Do you remember how that information had been received
3 by you, or any conversations you had had about it?

4 A. No. It's something that you would ask though because
5 there are CCTVs in some police vehicles, in the vans, so
6 that may have just been something I thought "Right, if
7 there's CCTV in one of the vans we will try and get it."

8 Q. Is there any reference in your daybook about CCTV that
9 you can find?

10 A. Yes, so it's PS01067.

11 Q. We will get that up on the screen if that's okay.
12 Right, tell us where we can find this?

13 A. I've got "1002 hours".

14 Q. Oh, right, on the left-hand side --

15 A. On the left-hand side, "TSU East".

16 Q. -- "1002 hours". Is this 3 May again?

17 A. Yes, yes.

18 Q. And "TSU", what does that stand for?

19 A. Technical Support Unit.

20 Q. And what's underneath that in your daybook?

21 A. "East".

22 Q. "East", right. And the time given, 1002 hours, is that
23 the time that you noted this, or does it signify
24 something else?

25 A. No, I think that's the time that I have either phoned

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1 the TSU or got their number at that point.

2 Q. So is this at 2 minutes past 10 in the morning on 3 May?

3 A. Yes. You mentioned earlier it was "0:13" hours, that's

4 actually I think 13 seconds into the call, rather than

5 after midnight.

6 Q. Oh, my mistake. So that's into the actual call rather

7 than the timing of the call?

8 A. So it's 13 seconds into the call that I made early on on

9 3 May, trying to get the CCTV for the van.

10 Q. Apologies, that's my mistake. So this was at 10 in the

11 morning on 3 May?

12 A. Yes.

13 Q. And you have been in touch with the TSU, technical

14 support.

15 A. Yes.

16 Q. Tell us who you spoke to at technical support?

17 A. I don't know who I spoke to.

18 Q. What was -- tell us about the conversation.

19 A. Well, I can only -- what I could tell you is that that

20 is my call to the control room basically saying that

21 I need to get the TSU out because I'm trying to -- you

22 can tell by the way I've said it that I'm trying to

23 impress the importance of getting that out and from

24 memory I think the TSU come out. I think they had come

25 out to try and secure the -- was it a hard drive in the

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- 1 van?
- 2 Q. Right, and you have said in your -- in the
3 conversation -- in your statement:
4 "There's a possibility that the CCTV in the van
5 covered the incident and so the on-call detective
6 super ..."
7 That's Pat Campbell, isn't it?
- 8 A. Yes, it would be, yes.
- 9 Q. "... asking for the out of hours Technical Support Unit
10 ... see if they can download that footage."
11 And tell us what happened about that?
- 12 A. If I remember correctly I think it was faulty.
- 13 Q. Right.
- 14 A. But I think I knew that before I phoned. I think I knew
15 there might have been a fault, so just as in that day we
16 think it's not working, but I was like "No, I'll get the
17 TSU out because just because it's not on a screen it
18 might still be recording."
- 19 Q. Is there an easy way of playing CCTV that's recorded
20 within the van itself?
- 21 A. I don't know how the van CCTV works.
- 22 Q. Right, okay, but you knew there was some sort of issue?
- 23 A. Yes, I think --
- 24 Q. Some problem?
- 25 A. Yes, yes.

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1 Q. So talking about it now, does it remind you where the
2 information came from?

3 A. Sorry, no, it doesn't.

4 Q. And were the TSU, as far as you were aware, able to help
5 with that fault, with that problem?

6 A. I don't remember seeing the TSU that day, but it was
7 a case of get them out, try to get that from the van and
8 I don't know what happened with that after that.

9 Q. Thank you. Can we have a look at paragraphs 74 and 75
10 of your Inquiry statement please. Now, perhaps if we
11 look at the previous page actually -- you've got the
12 hard copy -- you will see this is a series of questions
13 where you're being asked about the completion of
14 paperwork.

15 A. Yes.

16 Q. And you have been asked a number of questions about this
17 and you have given details in your Inquiry statement.

18 A. Yes.

19 Q. And you are talking about situations where you have
20 previous experience of this type of scenario.

21 A. Yes.

22 Q. And you say at 74:
23 "I've never had a situation where an officer has
24 refused to provide any of these documents."
25 And that was you being asked about paperwork like

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1 statements, use of spray forms, use of force forms.

2 A. That's right.

3 Q. "I've never heard of a senior officer completing
4 a junior officer's paperwork."

5 A. That's correct.

6 Q. "I've never been involved in a case where that's
7 happened."

8 And then at 75 you say:

9 "In my previous death in police custody case all of
10 us officers provided statements. There was no
11 difficulty with obtaining them. It pre-dates the MIT
12 and PIRC, you're talking mid-or early 2000s. I believe
13 it was investigated but I don't remember if it was
14 another division. It would have been Fife Constabulary.
15 It was a male deceased. The male was white. It was in
16 Dunfermline custody."

17 And I'm interested in your experience of having been
18 involved previously in a death in custody situation and
19 you have explained there that you had that previous
20 experience but you had never come across a situation
21 where officers had refused to provide the documentation,
22 and documentation being statements, operational witness
23 statements, use of force forms, use of spray forms, if
24 applicable. So could you tell us a little bit more
25 about this experience that you had.

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1 A. That was when I was -- I checked and I think it was
2 2007. I was a detective constable at Dunfermline CID
3 and part of my duties were to go and speak to people
4 that were in custody, so I would go down regular to the
5 areas in the cells and basically just speak to people
6 that were in custody and on that occasion I went to
7 a cell at Dunfermline Police Station, entered the cell
8 and found a male who was unresponsive. I exited the
9 cell and went and spoke to one of the custody care staff
10 who was in feeding other prisoners at the time,
11 explained to him that there was an issue and the custody
12 care officer immediately come straight in and started
13 doing CPR and trying to help.

14 Q. In that experience that you had was there any suggestion
15 in that scenario of wrongdoing on the part of the
16 officers, or potentially?

17 A. Certainly for myself, I went to a cell door, seen
18 something that's happened, tried to get help, so at no
19 point did I feel like I had done anything wrong on that
20 occasion.

21 Q. No, no, I'm not suggesting that.

22 A. No. But in terms of, you know, his earlier time in
23 custody, I don't know if there was any officers who at
24 that time thought, you know, "We've maybe not done
25 something quite correct here", I really don't know about

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1 that.

2 Q. But as far as you know, in that case all the officers
3 had given -- completed the paperwork, given statements?

4 A. I gave statements, I could say that for a certainty.
5 I don't know if there was other officers who didn't give
6 statements, but I can certainly speak about myself.

7 Q. So you're not sure about possibly other officers --

8 A. In terms of other officers, no, I don't know that
9 because I wasn't involved in the investigation into it.
10 I was effectively asked to provide a statement.

11 Q. So when you said you have never come across a situation
12 yourself where an officer has refused to provide any of
13 these documents, does that mean in your own experience
14 you've not provided -- you've not failed to provide
15 documents?

16 A. I've not failed to provide documents when I've been
17 asked in relation to a police incident.

18 Q. And you're not aware of any others who have failed to
19 provide documents?

20 A. No.

21 Q. Okay. Can I ask you to look at paragraph 79 please
22 because you do say here:

23 "If the officer is a suspect then I won't expect
24 them to provide a statement. If they're witnesses then
25 they're police officers so operational statements. If

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1 you don't know their status, then you capture evidence
2 and then at that stage assess where you are. As an
3 investigator I would want the officers' statements, but
4 if they refused and there's other evidence, you'd
5 capture that and return to the officers to be declared
6 witnesses or suspects."

7 Can we go through this paragraph please. When you
8 say "If the officer is a suspect then I won't expect
9 them to provide a statement", and why would that be?

10 A. Because if the officer is a suspect they would then be
11 entitled to legal representation. They would have to be
12 then cautioned and afforded rights as a potential
13 suspect and they're under no obligation to provide
14 anything other than to provide their name, date of
15 birth, place of birth, nationality.

16 Q. Thank you.

17 "If they're witnesses then they're police officers
18 so operational statements."

19 What does that sentence mean?

20 A. That means to me if you're not a suspect, if you're
21 a witness in a case, for me you're police officers, you
22 would then compile your statement and submit it to the
23 enquiry.

24 Q. Is this like your statement from 4 May?

25 A. Yes.

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- 1 Q. An operational statement.
- 2 A. Yes.
- 3 Q. And then "If you don't know their status, then you
4 capture evidence and then at that stage assess where you
5 are", what do you mean by that?
- 6 A. "If you don't know their status" ... well, you can ask
7 questions of anyone up until the point they fall into
8 the suspect category, okay, and now -- during this full
9 enquiry all the people that we were speaking to, as far
10 as I was concerned nobody fell into a suspect category
11 for anything in relation to Mr Bayoh, we were capturing
12 the evidence as witnesses, so what I'm saying is if you
13 don't know their status -- I actually don't know what
14 I mean by that because really someone's a witness or
15 someone's a suspect, ey, that's probably a better way to
16 describe that, and you try and capture that information.
- 17 Q. Okay. Where you've said at the end there "return to the
18 officers to be declared witnesses or suspects", what do
19 you mean by "declared witnesses or suspects"?
- 20 A. Well, you know, that's where someone would make
21 a decision. If there is ambiguity around about
22 someone's status, that's when you would say "No, that
23 person's a witness, we will go and try and capture
24 a witness statement from them". However, if there was
25 evidence to suggest that they had done something

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1 criminal then you would expect an officer to make an
2 assessment that they are a suspect.

3 Q. And if they're a suspect they're not obliged to give you
4 a statement.

5 A. That's correct.

6 Q. Even when they are police officers?

7 A. That's correct.

8 Q. But it remains possible for a suspect to provide
9 a voluntary statement, should they wish to do so.

10 A. Yes.

11 Q. They're not prevented from doing that if they want to.

12 A. No, suspects can speak to us if they wish to.

13 Q. And you have said here as an investigator you would want
14 officers' statements. Is that something in the
15 circumstances here on 3 May you would have found
16 helpful?

17 A. Yes.

18 Q. And can you explain why?

19 A. Because that would give you specific detail of what
20 happened at the time of the Police contact.

21 Q. So as an investigator involved at that stage of the
22 investigation, you have talked earlier today about
23 gathering in information and that -- and speaking to
24 people. If the status of an individual is confirmed as
25 a witness and they're not a suspect, would you -- you

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1 have talked about them being police officers. Would you
2 expect an officer to cooperate with a request for
3 a statement?

4 A. Yes, I would, but then at the same time I wasn't in
5 a position where I have just been involved in contact
6 with a male who has subsequently died, so see until I'm
7 in that position I wouldnae want to judge what these
8 people have done, ey. It's easy for me to sit and say
9 "Oh, come on, let's get your statements", but actually
10 until you know what their status -- what their status is
11 I can totally appreciate why someone may not have given
12 a statement.

13 Q. And what would you expect -- what information would you
14 expect to give to officers in that situation to confirm,
15 or declare, or clarify their status for them?

16 A. Well, you would just actually -- you know, be open and
17 honest with them and say "Listen, at this stage you're
18 a witness to this investigation and we're looking to try
19 and capture information from you."

20 Q. And can you tell us whether the lack of statements from
21 the officers who attended Hayfield Road impacted in any
22 way on your investigation on 3 May?

23 A. It wasnae my investigation. I was a small part in that
24 investigation. You know, would that information have
25 been good? Yes, I think so. I would have liked that

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1 information, but again, I wasn't in the position where
2 those police officers were in a canteen, not knowing
3 what's happened.

4 MS GRAHAME: Right, thank you.

5 I'm conscious of the time and I have not quite
6 finished with this witness.

7 LORD BRACADALE: Yes, well, that's a convenient point to
8 stop. You will return tomorrow morning please,
9 detective inspector. We will sit at 10 o'clock.

10 (4.15 pm)

11 (The Inquiry adjourned until 10.00 am on Wednesday,
12 1 March 2023)

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MR GRAEME DURSLEY (sworn)1

Questions from MS GRAHAME1

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