

Transcript of the Sheku Bayoh Inquiry

Tuesday, 7 March 2023

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(10.00 am)

(Proceedings delayed)

(10.04 am)

LORD BRACADALE: Good morning, Chief Superintendent
Trickett.

WITNESS: Good morning, sir.

LORD BRACADALE: Would you say the words of the affirmation
after me, please.

CHIEF SUPERINTENDENT CONRAD TRICKETT (affirmed)

LORD BRACADALE: Ms Grahame.

Questions from MS GRAHAME

MS GRAHAME: Thank you.
Morning.

A. Morning.

Q. You are Conrad Trickett?

A. Yes.

Q. What age are you?

A. 51.

Q. And you are currently, as of January of this year, as
I understand it, Chief Superintendent of policing in
a digital world?

A. I am, yes.

Q. Do you know Colin Robson?

A. I do.

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1 Q. Is he part of the team of people that work with you?

2 A. Yes.

3 Q. And when you were involved with the Sheku Bayoh death,

4 you were a Chief Inspector at that time?

5 A. I was, yes.

6 Q. And at that time, you had 16 years' service?

7 A. Yeah.

8 Q. How many years' service do you have now?

9 A. 24.

10 Q. And you joined the police in 1999?

11 A. I did, yes.

12 Q. You will see a blue folder in front of you.

13 A. Yeah.

14 Q. And I think you've already been told that that contains

15 hard copies of documents that you may wish to refer to

16 today. Please feel free at any time to look at any of

17 the documents in there. They're for your use.

18 A. Thank you.

19 Q. When I refer to some things, I may ask for them to be

20 put up on the screen. They'll only be able to show

21 maybe a paragraph or two. So if there's other areas you

22 think are relevant for your answer, just let me know and

23 we can have those brought up on the screen as well.

24 A. Thank you.

25 Q. You have a number, first of all, of statements, probably

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1 at the front of the blue folder, and I'll just take you
2 through those very quickly now.

3 There was no operational statement for you that was
4 prepared.

5 A. No.

6 Q. But we will come on to hear that you prepared a PIM log.

7 A. Yes.

8 Q. And I think there's -- there is a hard copy in your
9 folder now. I'm not sure where in your folder it is.

10 A. There isn't yet.

11 Q. Not yet.

12 A. Not the PIM log.

13 Q. It's on its way.

14 A. That's fine.

15 Q. We'll deal with the PIM log later. Let's look at the
16 statements. PIRC 00121 is the first one, this is from
17 14 May 2015 --

18 A. Yeah.

19 Q. -- at 12.40. And you'll see that you have your hard
20 copy.

21 A. Yeah.

22 Q. We can see it on the screen. And this was a statement
23 you gave to PIRC, to a John Clerkin. It's on the front
24 page.

25 A. That's right.

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1 Q. At Police Scotland, Queen Street Police Office in
2 Aberdeen, and in the presence of Alistair Lewis.

3 I think in your Inquiry statement you said to us
4 that you did your best to give a true and accurate
5 record when this was given to PIRC?

6 A. Yeah. That's right.

7 Q. Then look at PIRC 00122, and again this is another
8 statement that you gave to PIRC, and it was on
9 2 June 2015 at 13.30. This was taken by an investigator
10 John McSporran in the presence of John McAuley, again in
11 Aberdeen.

12 A. Yes, yeah.

13 Q. And again, were you doing your best to give a true and
14 accurate record --

15 A. Yes, I was.

16 Q. -- of the events?

17 Then PIRC 00123, and this is a third statement given
18 to PIRC on 18 January 2018 at 1400 hours, and taken in
19 the presence of Garry Sinclair and Ross Stewart.

20 Tell me, how do you pronounce Baluniefield Police
21 Office?

22 A. Baluniefield.

23 Q. Oh, really?

24 A. Yeah, spot on.

25 Q. Again, you were trying to give your best recollection

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1 and give a true and accurate record?

2 A. Yes, I was.

3 Q. Then moving on to SBPI 00076. Now, some while ago,
4 3 May last year, the Inquiry team sent you a series of
5 questions to answer called a response -- this is your
6 response to a Rule 8 request from the Inquiry.

7 A. Yeah.

8 Q. It's written questions and you provided your written
9 answers.

10 A. Yes, right.

11 Q. Can we see that it's 18 paragraphs that you've responded
12 to? And if we look at the last page, we see that it was
13 signed by you on 3 May 2022.

14 A. Right.

15 Q. Now, you'll see on the screen your signature's been
16 redacted, but your copy, I don't know if it's maybe
17 redacted or not --

18 A. Yeah.

19 Q. -- but you did sign that document?

20 A. Yes, I did, yes.

21 Q. And that was under a paragraph that says:

22 "I believe the facts stated in this witness
23 statement are true. I understand that this statement
24 may form part of the evidence before the Inquiry and be
25 published on the Inquiry's website."

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1 And you understood that when you signed it?

2 A. Yes, I did, yes.

3 Q. And then finally, the Inquiry statement, SBPI 00257, and
4 this is a statement that was taken by a member of the
5 Inquiry team, and it was taken on Friday 18 November
6 last year and 15 December 2022.

7 A. Yes, that's right.

8 Q. And it is 70 pages long, or ... that might not be
9 correct. If we go to the last page, you'll see that
10 there are 285 paragraphs, and it was signed by you on
11 2 February of this year.

12 A. Yes, that's right.

13 Q. And this is signed on every single page.

14 A. It is, yes.

15 Q. And the last paragraph here again says:

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

20 And again, you knew that when you signed the pages?

21 A. Yes, I did.

22 Q. Thank you.

23 In addition, I think there should be a hard copy of
24 a document which details your rank, postings and
25 training courses, which is in the blue folder.

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1 A. Yeah, got that.

2 Q. And that's also available for the Chair. We have
3 received that from Police Scotland. If you just have
4 a quick look at it, do we see that it details all your
5 postings on the front page, and then there's
6 a considerable detail given from pages 2 onwards of your
7 service history, and then further on at page 5, we see
8 the detail of your training history?

9 A. Yes.

10 Q. As far as you're aware, is that a full detail of your
11 service --

12 A. Yes.

13 Q. -- throughout the years?

14 A. It's a comprehensive list, yes.

15 Q. Yes. Thank you.

16 I'd like to begin by asking you some questions about
17 Sunday 3 May 2015, and having looked at your statements,
18 I understand that at around half past 9 that morning you
19 were in a teleconference meeting overviewing operational
20 activity that had occurred during the previous 24 hours?

21 A. That's right.

22 Q. And that was chaired by the Assistant Chief Constable
23 Nicholson?

24 A. Yes.

25 Q. And attended by other superintendents including

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- 1 Garry McEwan?
- 2 A. That's right, yes.
- 3 Q. Was this a normal part of your daily work?
- 4 A. So it's weekend on-call duty, yes.
- 5 Q. And I understand from one of your PIRC statements, and
6 I want to take you to that in a moment, that it would
7 appear that Garry McEwan and ACC Nicholson had
8 previously discussed the matter prior to the conference
9 beginning, and that it was at this meeting that the
10 incident involving Mr Bayoh was first raised with you?
- 11 A. That's right, yes.
- 12 Q. Were you aware at this time that Garry McEwan had
13 declared it to be a critical incident?
- 14 A. He briefed the meeting on that fact during the course of
15 the meeting.
- 16 Q. And looking at PIRC 000121, page 2, paragraph 2, do we
17 see that there was a discussion at this teleconference
18 regarding post-incident procedure and it was agreed that
19 a post-incident manager, a PIM, would be appointed?
- 20 A. That's right, yes.
- 21 Q. You identified to those present that you were PIM
22 trained and accordingly, the ACC directed you to attend
23 at Kirkcaldy Police Office in order to take on the PIM
24 function and role as post-incident manager?
- 25 A. That's right, yes.

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1 Q. That was your role?

2 A. Yes.

3 Q. From that point?

4 A. Yes.

5 Q. From that moment in time?

6 A. Yes.

7 Q. You were the PIM or the post-incident manager?

8 A. Yes.

9 Q. And can you tell us, first of all, what were you told at
10 that teleconference about the events that had taken
11 place at Hayfield Road?

12 A. So, a brief description of what had happened, which
13 I recorded in my PIM log, which -- there had been a male
14 armed with a knife, had been intervened with by the
15 police, that both CS and baton had been used on the
16 male, he'd been restrained and had gone into
17 cardiopulmonary respiratory distress, so CPR had been
18 commenced on the male by the police officers, ambulance
19 had been called and sadly that male had passed away at
20 the hospital and the officers were now back in
21 Kirkcaldy.

22 Q. And in the paragraph we were just looking at, where it
23 says:

24 "It was made clear to me that the officers who had
25 dealings with the male on the street were not present at

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1 Kirkcaldy Police Office."

2 I think you subsequently looked at that and
3 corrected it?

4 A. Yeah, that was a typo and the following statement refers
5 to that and says that shouldn't say "not present", it
6 should say "present".

7 Q. So you knew at that teleconference they were back in
8 Kirkcaldy Police Office?

9 A. Yes, that's right.

10 Q. And would you look, please -- do you have the PIM log in
11 front of you now?

12 A. I don't have the PIM log, no.

13 Q. Is there a hard copy? It will be 2 minutes.

14 A. Okay.

15 Q. We'll come back to that.

16 A. Happy to refer to it if ...

17 Q. It may be easier if we look at it on the screen.

18 A. Okay.

19 Q. PS00387. We'll do that in the meantime, but we'll get
20 you the hard copy --

21 A. Thank you.

22 Q. -- in a moment.

23 I'd like you to look at page 2, please, if we can --
24 just right at the top, please. Do we see that the
25 details of the incident are listed as Sunday 3 May 2015,

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1 9.55? And then could you read the -- underneath the
2 date it says, "Stage 1".

3 A. Yeah.

4 Q. And what does it say after that?

5 A. My handwriting? Yeah. So:

6 "Reports male machete in street. Police attend,
7 male strikes one with machete, other officers use CS, no
8 effect. Use batons, restrain. Collapses, CPR commenced
9 by officers -- ambulance -- hospital. PLE [which is
10 pronounced life extinct] 0906. Declared critical
11 incident."

12 Q. Thank you. Can I ask you about the first couple of
13 lines there:

14 "Reports male machete in street. Police attend,
15 male strikes one with machete ..."

16 Who was it gave you that information?

17 A. So the briefing that morning was from
18 Chief Superintendent Garry McEwan towards the ACC as the
19 chair of the meeting, so all the information that
20 I obtained was from Garry McEwan on that briefing.

21 Q. When did you note this down?

22 A. I noted it down when I started the PIM log, which is
23 when I arrived at Kirkcaldy Police Office. Slightly
24 later on, there is a time of 11.24, which is the time
25 I actually commenced writing it and I then made those

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- 1 notes. So 9.55 was the time that that briefing took
2 place at the teleconference and I noted down my
3 recollection at that point of what had been said.
4 Obviously, the summary of what had been said. And --
5 but it was noted at 11.24 when I commenced the log.
- 6 Q. So just further down that page, do we see at the bottom,
7 at the moment, it says, "Commence PIM log", if we could
8 move --
- 9 A. Yeah, that's right.
- 10 Q. And that says, "11.24, 3/5/15"?
- 11 A. Yeah.
- 12 Q. Is that when you actually got the log and started
13 writing in it?
- 14 A. Yes, that's right.
- 15 Q. And then on page 13, if we could move to that, do we see
16 that at the top, it says:
17 "11 o'clock attend at Kirkcaldy."
18 Yes?
- 19 A. Yes.
- 20 Q. That's the time you arrived, and 11.24 you start
21 writing?
- 22 A. Yes, that's right.
- 23 Q. Explain, please, what a PIM does.
- 24 A. Okay.
- 25 Q. Generally.

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1 A. Yeah.

2 Q. We'll come on to the detail later.

3 A. The detail, right.

4 So a post-incident manager is appointed, and there's
5 certain criteria that have to be fulfilled, but it's --
6 in general terms it's following a police contact death,
7 that sort of incident. Primarily derived out of
8 firearms training, the firearms deployments and so on.
9 So the history of PIM is in firearms, police use of
10 firearms. It's now much more broadly used, as was the
11 case in this incident.

12 And the role of the PIM is to balance the needs of
13 the investigation with the welfare of the officers, but
14 prior to sort of PIM being created by the police
15 service, there was no provision for both the welfare
16 needs of the officers and the needs of the enquiry to
17 progress.

18 So the role of the PIM was created and borne out of
19 that, primarily due to shooting incidents in the
20 Metropolitan Police area is where the sort of history of
21 PIM lies, and it's then been widely rolled out across UK
22 policing. And the PIM manager is the individual who
23 tries to balance that needs of the investigation, the
24 wellbeing needs of the officers, and can probably be
25 seen as a co-ordinator or a facilitator of those two

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1 sometimes competing demands.

2 Q. Can you explain --

3 LORD BRACADALE: I think that's the hard copy arrived now.

4 MS GRAHAME: Oh, thank you.

5 A. Thank you. Thanks.

6 Q. If at any time you would be assisted by looking at that,
7 please feel free to do so.

8 A. Thank you.

9 Q. And we can bring the image up on the screen.

10 A. Thanks.

11 Q. Can you explain, please, the significance then in terms
12 of this incident that a PIM was actually appointed?

13 A. So the significance is that this, this tragic death, did
14 not follow the discharge of police firearms. At the
15 point in time, in 2015, post-incident procedures and the
16 policies related to that and the sort of custom and
17 practice, and so on, was all in relation to firearms.
18 Other areas of the UK had started to use the process
19 for -- in the non-firearms context, and indeed now it is
20 widely used in the non-firearms context. But, in 2015,
21 Police Scotland just had the policy around firearms and
22 so PIM was only used in a firearms context. Clearly,
23 this isn't a firearms discharge that we're discussing.

24 Q. We'll come on to the SOP --

25 A. Yeah.

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- 1 Q. -- in due course.
- 2 A. Sure.
- 3 Q. But why, can you explain why it was seen as a benefit to
4 use this PIM manager?
- 5 A. So I think that ... because of the core definition,
6 really. So what was apparent was there would be the
7 requirements of an investigation following this
8 incident, and also there's an organisational
9 responsibility to look after the welfare of the officers
10 that have been involved in this traumatic incident. And
11 actually, the best way to achieve both is to have
12 a post-incident manager appointed and to run through
13 post-incident processes. And so that was the
14 decision-making that was put in place by Chief
15 Superintendent McEwan and the decision by the ACC to
16 appoint a post-incident manager.
- 17 Q. In terms of balance, you've talked about the
18 investigation and the welfare and there being
19 a balancing act, would you say the priority of the PIM
20 is to assist the investigation or is it more weighted
21 towards welfare?
- 22 A. Balance the two, though there isn't a priority.
23 Historically, the investigation has taken primacy to the
24 detriment of the welfare of officers. And I refer to
25 previous, you know, incidents now, not this one. And

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1 that's why post-incident management evolved, to try and
2 strike that balance, so it's not a case of one's
3 a priority over the other, it's a balance between the
4 two.

5 Q. And was that the position in 2015?

6 A. Yes, yeah.

7 Q. So to what extent, if any, is the PIM actually involved
8 in the investigation, or is it simply you've talked
9 about facilitating?

10 A. So the PIM is not involved in the investigation and has
11 no responsibility in relation to the investigation.
12 Indeed, the front page of the log refers to being
13 independent of the investigation.

14 Q. And can we look at that for a moment? So this says at
15 the top:

16 "Terms of Reference

17 To facilitate application of the post shooting
18 procedures policy and the IPCC investigation, balancing
19 the welfare needs of officers within current legal
20 requirements, protecting the rights of both individuals
21 and the force."

22 The part you were talking about --

23 A. It's at point 5 there.

24 Q. Point 5.

25 A. "Remain independent of the investigation."

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1 So there's, as the Inquiry will understand, there is
2 a senior investigating officer that's appointed,
3 obviously in this case also PIRC were appointed, there
4 are a lot of people responsible and delivering on the
5 investigation side of this incident. And I need to --
6 so I facilitate the requests from the investigation in
7 relation to the officers at that particular time. And
8 then in terms of the welfare of the officers, it is the
9 line management of the officers and myself as the PIM
10 that are looking after the welfare needs of those
11 officers, and my role is to balance those two things.

12 Q. So you'll receive a request from the SIO or from the
13 investigation side, and will you view that or filter it
14 through the perspective of welfare of the officers?

15 A. That's right, yes.

16 Q. And can you explain, at the top, underneath "Terms of
17 Reference", why it refers to "IPCC"?

18 A. So this document, the PIM log that I used, was --

19 Q. Just give me a moment, please.

20 A. Sorry.

21 Q. We'll get that brought down on the screen. If we go
22 back to the top, thank you.

23 A. So the PIM log that I used is one that was provided to
24 us from the training course that I went, to be
25 a post-incident manager. At the time, there wasn't

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1 a specific Police Scotland PIM log and this was seen as
2 sort of best practice in terms of UK PIM procedure. So
3 I used the log that I'd been sort of trained on and had
4 been provided during that training course.

5 Q. And was that an English form rather than
6 a Police Scotland form?

7 A. That's right. So it refers to -- well, IPCC is the best
8 example, it refers to -- and actually within it, I think
9 it refers to Kent police as well. So there are
10 references to, you know, the wider UK landscape rather
11 than the relevance for us in Scotland.

12 Q. So you used this, this came from a training course you
13 had attended?

14 A. That's right.

15 Q. And had you actually attended a training course in PIM?

16 A. Yeah, so it's a specific additional specialism that
17 officers can volunteer to undertake, and there's a week
18 long training course and then sort of regular, usually
19 annual, continuous professional development events to
20 keep sort of fresh and up to date with policy,
21 procedures and so on, and a bit of experience around it.
22 And that's a course that I chose to do and continued for
23 a number of years.

24 Q. And when had you attended that training course?

25 A. So it was 2009 and that's referenced in the training

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1 document that you referred to earlier.

2 Q. And then you had annual training thereafter?

3 A. Season(?) refresher training, yes, which is recorded in
4 the document as well.

5 Q. You had continued with that annual training until as up
6 to May 2015?

7 A. That's right. That's right.

8 Q. What experience did you have of putting that training
9 into practice up to the point of 3 May 2015?

10 A. So I was an officer in Tayside police before
11 Police Scotland, so Police Scotland was April 2013, so
12 a couple of years prior to this incident, and I was
13 trained in 2009. So obviously, the nature of this role
14 is that there isn't -- it isn't used often in
15 an operational live context, if you like, so you do rely
16 on that continuous professional development and
17 training, you know, ongoing training to keep skills
18 going.

19 In that time period, in Tayside police -- and
20 different legacy forces were at different places in
21 terms of their use of PIM, so that, where I referred to
22 earlier in terms of it now being used more broadly,
23 those discussions were active discussions around about,
24 you know, the time that we're referring to. Some legacy
25 forces had kind of moved a bit further with that

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1 discussion, Tayside police to a certain extent, other
2 forces were using it just in the firearms context.

3 So in Tayside police, we had a capability where
4 public order trained officers were -- and deployed with
5 Taser, and if they deployed in a live situation and
6 discharged Taser, then we instigated post-incident
7 procedures. And on one of those occasions, I was the
8 post-incident manager for that discharge. So a number
9 of public order officers, there had been discharge of
10 a Taser, and we went through the post-incident procedure
11 process for that.

12 Q. And to put it into context, how long did that role of
13 post-incident manager take in relation to the Taser
14 incident?

15 A. So they always take a number of hours. So, I can't
16 recall the exact time, but typically four or five hours
17 is not uncommon. We'd also run scenario-based training
18 with the firearms officers in Tayside, so that all the
19 officers had that awareness and we'd run through
20 a sort of scenario where they went through a PIM
21 process. And again, even in the training environment,
22 that was a day's training to run through, explain the
23 process and run through the process.

24 Q. And in the scenario training that you'd been involved in
25 with Tayside, how many times had you done that?

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1 A. So we -- so we ran the same exercise on a number of
2 occasions with different groups of firearms officers, so
3 I probably was involved on two or three of those
4 occasions.

5 Q. What was your role on those scenario-based --

6 A. I took the role of the PIM.

7 Q. And had that been helpful, having those scenario-based
8 training programmes?

9 A. Yeah, because it's not -- a skill that's not often used,
10 then your sort of operational competence around it needs
11 to be developed in other ways. You know, I had that
12 operational experience on the one occasion, which was
13 obviously very helpful, and informed me and educated me
14 in how it works in practice. But likewise, running
15 through a training scenario helps, it's never the same
16 as obviously a real event, but it does help in terms of
17 bringing in the policy, that we'll come onto, bringing
18 that into life -- it's a very practical policy, so being
19 able to bring that into practice is a useful thing as
20 opposed to incident manager.

21 Q. We've heard evidence from a number of officers about the
22 distinction between eLearning, being in a course in
23 person, and then scenario based --

24 A. Yes.

25 Q. -- as you put it, or simulations or things of that sort.

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- 1 A. Yes.
- 2 Q. What's your experience of the benefits of the scenario
3 based, compared to the others?
- 4 A. So I think it's widely recognised that experiential
5 learning is the best way to learn, and that should be
6 sort of the focus of learning, if it can be achieved.
7 It can't always be achieved, but if it can, it's the
8 preferred one, because it tends to -- it brings the
9 learning to life, and so you should, you know, recall
10 it.
- 11 Q. Prior to 3 May 2015, you've explained to us you had your
12 experience with Tayside regarding a Taser incident,
13 where you had been post-incident manager, and then you'd
14 had scenario-based training as well. When was the most
15 recent to the 3 May training that you'd had?
- 16 A. I think there is a date in the training record and
17 it's --
- 18 Q. Please feel free to look at it.
- 19 A. I think it's maybe --
- 20 Q. The training starts on page 5, and this is --
- 21 A. I think it was -- it was 2014, I think, from
22 recollection.
- 23 Q. It may be on page 12.
- 24 (Pause)
- 25 A. How far down that page are you --

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1 Q. Page 12, you'll see halfway down, there's entries from
2 January 2014, and then the very last entry on that page
3 is 1 January 2015.

4 A. Yeah.

5 Q. So it's in the latter half of page 12 that you see 2014.

6 A. Yeah.

7 Q. It may not immediately be recognised ...

8 A. No, I have to ... so if you go on page 11 actually,
9 about two-thirds of the way down, 24 January 2014,
10 firearms course, local, post-incident manager.

11 Q. Sorry, 24 January?

12 A. It's not -- some of the skillsets are grouped together
13 rather than in date order, I think.

14 Q. Right.

15 A. So about two-thirds of the way down page 11.

16 Q. I've got 25 May 2011, and I've got 24 January 2014.

17 A. Yeah. So that January 2014 was a post-incident manager
18 refresher course, but that's the one that I suspect is
19 the closest to the incident.

20 Q. Thank you. Then the one above that was September 2011
21 and that also says "post-incident manager"?

22 A. Yeah.

23 Q. So is that the type of entry that would --

24 A. Yeah.

25 Q. -- signify the scenario-based training that you were

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- 1 doing?
- 2 A. Yeah. There are -- yeah, and there are some others on
3 page 13, about the middle of the page, there's a number
4 of post-incident manager refreshers, with various dates,
5 although they're -- sorry, they're after the incident.
- 6 Q. Thank you. Going back to your -- the evidence you gave
7 a moment ago, you mentioned the role of SIO. We've
8 heard that a senior investigating officer relates to the
9 investigating side of matters.
- 10 A. That's right.
- 11 Q. And you told us in reference to page 1 of your log that
12 you are independent of that person. Do you remember who
13 was SIO when you were appointed PIM?
- 14 A. So Detective Superintendent Pat Campbell -- detective
15 superintendent at the time, chief superintendent now --
16 Pat Campbell was the SIO that I engaged with during the
17 PIM process.
- 18 Q. Had you heard of a Colin Robson being SIO?
- 19 A. No.
- 20 Q. We've heard evidence he was the on-duty SIO for Fife
21 division that day.
- 22 A. Yeah, I understand that now, but not at the time.
- 23 Q. Did you know that at the time?
- 24 A. No.
- 25 Q. You've also mentioned that you were aware that PIRC were

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- 1 being brought in to lead the investigation?
- 2 A. That's right.
- 3 Q. Were you aware at that time to what extent PIRC would
- 4 lead matters and police would support PIRC?
- 5 A. No. That's not part of a conversation I was part of.
- 6 Q. Is that something you would expect to be part of as PIM?
- 7 A. No, the important thing for the PIM is to have a point
- 8 of contact into the investigation and typically that's
- 9 the senior investigating officer, which is --
- 10 Q. Not yourself?
- 11 A. Well, the senior investigating officer is the lead for
- 12 the investigation, who engages with me as the
- 13 post-incident manager, so provides me with those
- 14 investigative requirements.
- 15 Q. Were you aware at that time that you were appointed
- 16 whether Police Scotland were continuing to take the lead
- 17 in relation to the investigation pending the arrival of
- 18 PIRC?
- 19 A. So when I was appointed at the briefing, the
- 20 teleconference briefing, none of this detail was
- 21 discussed.
- 22 Q. When you arrived at Kirkcaldy, was any of that detail
- 23 discussed?
- 24 A. So I was aware that PIRC -- I was aware that PIRC were
- 25 going to become involved in the investigation, and

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1 ultimately would lead the investigation, the detail of
2 how that was going to happen was not -- was not a matter
3 for me.

4 Q. Would it have helped you to have known about who was
5 leading and what was happening --

6 A. No.

7 Q. -- in terms of the investigation?

8 A. No. I need that point of contact, which was the senior
9 investigating officer. If that individual had changed
10 to a PIRC senior investigator, that would have been the
11 individual I engaged with. But it didn't, it stayed as
12 the SIO.

13 Q. So as long as you knew who the right person was to speak
14 to, that was as much as you needed to know?

15 A. That's right.

16 Q. At the point that you were appointed, had the SIO
17 already been appointed prior to you?

18 A. I wasn't briefed on that, so I'm not aware.

19 Q. Now, we've spoken a moment ago about the PIM log and you
20 arriving at Kirkcaldy at 11 o'clock in the morning. If
21 we go back to page 13, do we see that there's another
22 entry at 11.30? And this says:

23 "Meet & Greet all officers ..."

24 A. That's right.

25 Q. Do you see that on the second line? I wonder if you

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1 could read out what you've noted at 11.30 that day.

2 A. Yeah. So:

3 "Meet & Greet all officers as per my aide memoire."

4 And then there's a number of lines:

5 "Issues raised.

6 Finishing time."

7 And then alongside that, it's got "with SIO":

8 "FME [force medical examiner] required for CS

9 cross-contamination."

10 And there's "Custody Nurse" to the right:

11 "Holding Statement."

12 It says "Jane/SIO" to the right:

13 "Statements to be given."

14 It says "with SIO":

15 "Food (tasked to Fed Rep."

16 Federation rep.

17 "Clothing -- with SIO.

18 "Legal advice -- Fed Rep."

19 And then it documents who my team is, PIM support,

20 Inspector Jane Combe, and Fed rep is Amanda Givan.

21 Q. Thank you. I'm going to ask you some questions about

22 these notes.

23 First of all, in the period between 11 and 11.30,

24 what were you doing?

25 A. So I arrived -- just go back slightly. So the

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1 teleconference, I was in Baluniefield in Dundee and
2 obviously this is in Kirkcaldy at the bottom of Fife, so
3 there was about an hour of travelling for me to get from
4 one to the other. And so I arrived at about 11. I went
5 upstairs, I hadn't been to Kirkcaldy before, but I went
6 upstairs to the police office, to the offices that were
7 there. I remember speaking to -- to the area commander
8 and to Garry McEwan as well. And it was upstairs that
9 Jane Combe was introduced to me, so Jane was --
10 I hadn't -- again, these were individuals I hadn't met
11 prior to the incident in question. So Jane was
12 introduced as a local inspector, who would be able to
13 help me, to facilitate the PIM process. So I warmly
14 welcomed her as part of the PIM support mechanism.

15 There was a brief conversation with Garry McEwan
16 about the fact there was a Gold Group was going to be
17 taking place relatively soon, and should I attend the
18 Gold Group or not, and the sort of joint decision
19 between us was my -- I'd be better -- because the
20 officers had been in the canteen for some time, it would
21 be better for me to go and engage with the officers and
22 initiate the post-incident procedures with the officers
23 rather than get drawn into a Gold Group meeting which
24 would then delay me actually engaging with the officers.

25 So those were really the two main things that came

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1 out of the time upstairs, so that was, you know, 15 --
2 15 minutes.

3 Went downstairs with Jane, and met with Amanda Givan
4 as the federation rep, and then again the three of us,
5 I then just very briefly described my role. There's
6 probably a point around the knowledge of post-incident
7 procedures at this time, which is worth drawing out at
8 some point for the Inquiry's benefit. But a briefing to
9 both of them about the role and what I was going to do.
10 And then went into the canteen and started the -- the
11 first thing I did was actually sit down at the table
12 whilst the officers were being sort of gathered, if you
13 like.

14 Q. I'll stop you there, and we'll move on to that in
15 a moment. But I am interested in what was happening
16 just prior to this.

17 A. Okay.

18 Q. So you've mentioned meeting Jane.

19 A. Yeah.

20 Q. Had she been briefed prior to you arriving in the room,
21 or was that going to be part of your role?

22 A. Briefed about?

23 Q. Briefed about the incident.

24 A. I don't know.

25 Q. You don't know. And then you've come down and you

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1 mention speaking to Jane Combe and Amanda Givan.

2 A. Yeah.

3 Q. Was that what you would call a briefing to them?

4 A. About the PIM process, yes, not about the incident.

5 Q. Tell us what -- had you met Amanda Givan before?

6 A. No.

7 Q. There's two officers you've not met before, you give

8 them a briefing about the PIM process. What is it you

9 said to them?

10 A. So I can't recall my exact words and I obviously haven't

11 noted it down at the time. Probably something similar

12 to my answer to the question about what is the role of

13 PIM? So the balance between the investigation and the

14 welfare needs of the officers is the line of PIM

15 training and it's in the SOP and so on. So that's

16 an often used phrase to describe the role of the PIM.

17 And then probably some practical steps that the first

18 thing I intend to do is get the officers round to go

19 through a process with them and then we'll then,

20 you know, talk about each stage of the process as it

21 happens in material time. And both Jane and Amanda were

22 there to support and help facilitate the various stages,

23 which I'm sure we'll come on to in terms of the

24 interaction with them.

25 So it will have been -- it's a five-minute "this is

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- 1 PIM, this is what I'm going to do, this is what I'm
2 hoping you can do to support me" and then into the room.
- 3 Q. Did you give them any specific tasks at that stage?
- 4 A. Not at that stage.
- 5 Q. And were you aware or did you have any discussion about
6 what training they'd had in PIM or what awareness or
7 knowledge they had of it?
- 8 A. So I knew that Jane wasn't PIM trained. I wasn't aware
9 if Amanda was or wasn't PIM trained and I don't recall
10 asking prior to going into the room.
- 11 Q. Looking back now, do you think that's something you
12 should have been asking or was it not important to you
13 at the time?
- 14 A. I was happy to direct the officers in what they needed
15 to do and the Federation has some specific roles in
16 relation to post-incident procedure and a broad role
17 around welfare and wellbeing of officers, so I was
18 comfortable that if they carried out their role as
19 a Federation rep, then they would be supporting the PIM
20 process.
- 21 Q. We have heard that Amanda Givan was a Federation rep?
- 22 A. That's right.
- 23 Q. The role of Jane Combe, we have heard some evidence that
24 suggested that she was a deputy PIM. Now, we've also
25 heard from Jane Combe herself, who didn't accept that

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1 that was her --

2 A. No.

3 Q. That that was a formal role that she was taking that
4 day. What's your position on that?

5 A. So I think it was one of the questions I was asked about
6 deputy PIM. "Deputy PIM" is not really a term that I'm
7 used to. It's not a term that I could -- that I was
8 aware was in the SOP and it's not a term that I've
9 looked back and found in the SOP. So I'm not sure where
10 the term "deputy PIM" has come from, because it's not
11 one that I would have used. I have -- so, as a PIM, you
12 would form a team around you to support you -- and
13 that's now more formalised actually than it was in 2015,
14 but you would form a team around you. So I know
15 I needed some help. And a Federation rep is always
16 going to be part of that wider support team.

17 So actually the language of support, a person to
18 support me in the PIM team is how I would have described
19 it. Indeed, that is how I described it in terms of --
20 I think it's still on that page, so yeah, PIM support,
21 Inspector Jane Combe, so, in my mind, Jane was there to
22 support me. She wasn't there as a deputy PIM, even if
23 that terminology was in use, which it wasn't, you would
24 expect that person to be PIM trained if they were
25 a deputy PIM, and that wasn't my expectation.

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1 Q. Thank you.

2 In terms of the support team that you had, you've
3 mentioned Amanda Givan as a Federation rep, was that
4 customary for a Federation rep to be part of your team?

5 A. Yeah, Federation hold a key role in post-incident
6 procedures. Their more general mission is around
7 welfare and efficiency for policing and therefore the
8 welfare side is absolutely -- it's that balance between
9 the investigation and the wellbeing, welfare of the
10 officers, that they contribute to that welfare.

11 Specifically in the PIM process as well, legal
12 advice to officers comes via the Police Federation. And
13 so there's a sort of specific role within that, that I'm
14 sure we can come to at some point as well, around the
15 legal -- access to legal advice.

16 Q. I'm interested in the role of Amanda Givan as Fed rep
17 and whether her role as Fed rep was distinct in any way
18 from the role as PIM support. Are there distinctions
19 there or not?

20 A. So I think one is almost a subset of the other. So my
21 role is to balance the needs of the investigation with
22 the welfare of the officers. Federation rep is there
23 for the welfare of the officers. And so in the same way
24 that the SIO is my point of contact to facilitate
25 requests from, from the investigation point of view,

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1 then when I'm considering welfare matters for the
2 officers, the Federation will be able to facilitate some
3 of that for me, through their normal sort of day role,
4 if you like. That's one of their raison d'êtres.

5 Q. Becoming part of your team as PIM support, does that
6 alter the role of a Federation rep or not?

7 A. Not in my mind. No. She is providing the role of
8 Federation representative within the confines of the
9 post-incident procedure, is probably the best way to
10 describe it, if that helps.

11 Q. Let's go back now to 11.30, your PIM log says:

12 "Meet & Greet all officers as per my aide memoire."

13 And I wonder if we could look at an earlier page of
14 the PIM log, which is page 3 of the hard copy, and do we
15 see that this is headed up "Meet and Greet Officers,
16 Explain ECHR"? And it's quite difficult to read the
17 black lettering.

18 A. Yeah.

19 Q. But it may be something along the lines of "introduce
20 PIM team"?

21 A. That's right.

22 Q. Then underneath that, it may say, "Retrieve item of
23 their weapons ..."

24 A. I think it's "relieve them of their weapons".

25 Q. "Relieve them of their weapons", and you've ticked the

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1 first, not the second. Can you tell us, what do we see
2 here on the screen?

3 A. So just to add to what you've said there as well, in
4 terms of there's after the meet and greet, introduce PIM
5 team, it also explains the PIM role. So I think there
6 is -- this isn't the aide memoire that I've referred to
7 in the log. So there is an aide memoire document that's
8 lodged with the Inquiry that just has some bullet points
9 of different matters to -- I don't think it's in the
10 folder.

11 Q. I can get that later.

12 A. Yeah. So the meet and greet is an important part of the
13 PIM process. So introducing the PIM team is clearly the
14 first thing you would do in terms of introducing
15 yourself and the other people that are in the room,
16 explaining the PIM role. So again, we think back to
17 2015, the knowledge of post-incident procedures and the
18 role of the PIM was much less mature than it is now in
19 2023, and therefore -- and if we remember how it's borne
20 out of firearms, and I think I explained that the
21 training that I'd done was with firearms officers, so in
22 general terms, a firearms officer would be aware of PIM,
23 would be aware of the post-incident procedure, would be
24 aware that they were going to go through this process,
25 having had a discharge of a firearm and so on.

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1 In 2015, as an organisation, we had not either
2 expanded the policy beyond use of firearms nor indeed
3 then done the training and education awareness raising
4 that you would want to do with that. Therefore, I'm
5 confronted by officers who will have little or no
6 knowledge of the PIM, the post-incident process, and
7 what is happening to them. And, of course, coupled on
8 top of that is the impact of the trauma that they have
9 faced in terms of dealing with that incident.

10 So trying to explain my role, and again using the
11 language of balancing the need -- there will be
12 an investigation and I need to balance the needs of that
13 investigation with looking after, you know, you, as the
14 officers, and looking after your welfare. You normally
15 explain that it will take a period of time, as we've
16 touched on, these things are not quick, and then there's
17 some quite practical stuff in the aide memoire.

18 So, first of all, does anyone need medical
19 attention? You know, is there anyone -- so you don't
20 assume, so, you know, is there anyone here that needs
21 medical attention and a simple thing like that. There
22 might be -- they might all be sitting there with all
23 their equipment on. So, you know, it's about making
24 them comfortable, because they're going to be there for
25 a period of time. Have they eaten, what stage is this

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1 in their tour of duty? Do they actually need practical
2 things like access to food and water and so on? So
3 there's some -- contact with home, are they supposed to
4 have been off duty two hours ago, will people be worried
5 about them?

6 So it's a whole kind of bunch of really practical
7 things in terms of just getting the officers in a place
8 where they know what's going to happen, as best as we
9 can explain at that point, and that we just look after
10 those immediate sort of welfare needs.

11 And then, importantly, and referring back to -- so
12 the bit about relieving them of their weapons, and I've
13 put "not applicable", so that's very much based on the
14 firearms context. So typically, you know, firearms
15 officers would have a sidearm, would have less lethal
16 weapons, would have a carbine weapon as well, so you
17 would want to be taking all that weaponry off officers,
18 they're going to walk into the PIM suite with all that
19 weaponry, so you would obviously want to practically
20 remove that from them. That wasn't applicable in this
21 incident.

22 But then the important bit that is referred to here
23 is the conferring bit, and the conferring reminder.

24 Q. I'm going to --

25 A. Yeah, I'll pause.

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- 1 Q. I'll ask you about that, if you don't mind.
- 2 A. Of course.
- 3 Q. Can I just check one or two things that you have already
4 discussed?
- 5 A. Yeah, absolutely.
- 6 Q. You mention "less lethal weapons". What are less lethal
7 weapons?
- 8 A. So less lethal weapons, using police equipment, is
9 everything from the police baton that every police
10 officer carries, CS spray, and Taser. And there's also
11 the use of police dogs is a less lethal option. There's
12 a range of options that -- I suppose what we're --
- 13 Q. PAVA spray?
- 14 A. CS/PAVA, yes absolutely. So we're contrasting it with
15 the use of firearms, which if you're going to discharge
16 a firearm, that's likely to have a lethal result.
- 17 Q. When you say "firearms", are you talking about things
18 like guns?
- 19 A. Yeah, sorry, yeah.
- 20 Q. We've heard that for some matters that a CS spray may be
21 classified as a firearm --
- 22 A. So technically, because the Firearms Act includes the
23 discharge of noxious substances, then technically
24 CS/PAVA is defined as a firearm, but it is not a lethal
25 barrelled weapon.

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- 1 Q. So for these purposes you would also be removing not
2 just firearms but less lethal weapons?
- 3 A. Yeah. So the primary purpose about de-kitting is to
4 make the officers comfortable. So we can't lose sight
5 of that. So it's actually the thing that makes them the
6 least comfortable is their body armour, you know, it's
7 quite a heavy bit of equipment, equipment belts and so
8 on. So you would relieve them of those items of
9 clothing -- equipment, sorry, rather than clothing, so
10 they're just sitting there, as me and you are sitting
11 here today, so they're more comfortable for the number
12 of hours that we know it's going to take before they
13 can, you know, go home and so on.
- 14 Q. When you arrived in the canteen that day, had they
15 already removed their equipment and their uniform, or
16 was that something that you advised them to do as part
17 of your PIM role?
- 18 A. So that's right, when I arrived, as I would have
19 expected actually, they'd already taken off their body
20 armour, their equipment belts, and were sitting there in
21 black trousers, black T-shirt, you know, that sort of --
22 they may have had a fleece on, but that kind of normal
23 clothing, so their equipment had already been taken off.
- 24 Q. In terms of the equipment, could you say where it was
25 that day?

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- 1 A. So some of the equipment was within the PIM suite, and
2 some of it had been placed in their lockers, which the
3 locker room was just to the left of the room we were in.
- 4 Q. When you refer to "the PIM suite", what are you
5 referring to?
- 6 A. So I'm referring to the room that we used, which was the
7 canteen at Kirkcaldy.
- 8 Q. So if others have referred to "the canteen" --
- 9 A. Yes.
- 10 Q. -- and you refer to "the PIM suite", are we talking
11 about the same thing?
- 12 A. We are. Yeah, we are.
- 13 Q. I will ask you some questions about that as well.
- 14 A. Yeah.
- 15 Q. But in terms of the equipment, we've heard some evidence
16 that some equipment was on a table in the canteen or the
17 PIM suite, some was leaning against walls or on the
18 floor. Was that correct, as far as you recall?
- 19 A. Yeah, so I -- yes. That's a reasonable description.
- 20 Q. Was it any part of your role to do anything about that
21 equipment, or was it simply just making sure they
22 de-kitted to feel comfortable?
- 23 A. So it's important that the equipment's in a place that
24 the officers can -- can take charge of their equipment
25 and, if needed, to hand it to the enquiry team. I don't

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1 want to rush ahead, but obviously one of the requests
2 from investigation was around clothing. So obviously at
3 that point in time, it's important that the officers can
4 gather their equipment and put it there. If their
5 equipment is literally positioned in piles as per the
6 officer, then that's okay until we get to the
7 investigative recovery of that clothing -- that
8 equipment, sorry.

9 Q. Can I ask you, first of all, was there any part of this
10 page 3 of the PIM log that you used or was it simply the
11 separate aide memoire with the bullet points that we'll
12 deal with later?

13 A. So in terms of the conferring reminder, this is the
14 document that I had -- I had in front of me along with
15 that aide memoire. The aide memoire doesn't give the
16 detail of the conferring reminder in. So although it
17 says, you know, carry out a conferring reminder, but
18 this is the language that I tried to
19 paraphrase/non-firearms sort of define, if you like, so
20 using some of the key language in this conferring
21 reminder, so I could stay as true to the reminder,
22 recognising that there's some bits of it are quite
23 specific about firearms that wasn't relevant to the
24 situation I found myself.

25 Q. Can I ask you to look at, if we can have that properly

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1 on the screen, and perhaps you could explain to the
2 Chair what you remember saying --

3 A. Yeah.

4 Q. -- to the officers about this?

5 A. I think that's the aide memoire actually, yeah.

6 Q. So is this the ... I think we've changed documents. So
7 is this the aide memoire that you were referring to
8 a moment ago?

9 A. Yes.

10 Q. That's PS18503 and you mentioned a document with bullet
11 points on it, and take us through this document, please.

12 A. So this is, this forms a little bit more detail around
13 the issues that you would cover during a meet and greet.
14 And as I've described, you know, the immediate welfare
15 right up to any medical requirements is the sort of
16 first thing that you want to consider. There's the make
17 officers comfortable, which we've just touched on, in
18 terms of equipment and so on. And then the welfare
19 needs as you see.

20 This refers to another aide memoire, so there is
21 an aide memoire that exists, which is sort of a ... that
22 is just, it basically has these things in little boxes
23 and a flow diagram. But as far as I'm aware, it's not
24 something that the Inquiry have, so it's not something
25 we can refer to, but it's the same sort of points in it.

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1 So when they're saying "see aide memoire", they're
2 referring to this laminated -- that's the word I was
3 looking for -- laminated product that PIMs will use.

4 But essentially, it runs through this as a bit of a
5 tick list. So, you know, these are the issues that I've
6 already touched on really.

7 The clothing, they might need to change out of their
8 clothing into other uniform or other clothing. Do they
9 need a wash, a shower, do they need a doctor, food,
10 drink, the phone calls, the bit about -- also, there's
11 two bits to the phone calls, you can see it says expand
12 there. One is that practical bit about is somebody
13 worried about you because you're not at home and you
14 should be, but there's also then the bit about the
15 responsibility for them that, you know, the greatest
16 source of information about this potentially could come
17 from themselves and therefore to protect the integrity
18 of the enquiry and indeed to protect themselves, then
19 they should not be posting on social media, for example,
20 those kind of things.

21 Q. Is that something that you instructed them on the day?

22 A. Yeah, yeah. Federation situation, you will see there,
23 and the legal side of it, that I'm sure we'll talk
24 about. Then --

25 Q. Then the bullet point beneath, it says:

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1 "Anonymity -- steps taken, steps required -- mobiles
2 etc."

3 A. Yeah. So part of -- part of the PIM process certainly
4 in relation to firearms is imposing anonymity at the
5 beginning to quite a high standard, so that includes
6 using letters as a reference rather than the officers'
7 names, things like the command and control log being
8 locked down, so restricted so that only certain
9 individuals can see it. The provision of accounts
10 potentially being, you know, referenced -- only,
11 you know, certain levels of control being applied to
12 provision of accounts and so on.

13 And this is all to protect the officers in terms of
14 their own -- their own rights to privacy and their own
15 media scrutiny and their own -- you know, potentially if
16 it's not this incident, but an incident that might be
17 related to serious organised criminality or terrorism,
18 then there might be some specific personal safety
19 threats.

20 So the anonymity is a process that can be put in
21 place. There's a number of measures there that I've
22 touched on, and you can put in all of them or some of
23 them to protect the anonymity.

24 And the reference to "mobiles" is actually what I've
25 said about, you know, part of this is that the

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1 protection of anonymity, each individual has
2 a responsibility, and that's place as well, because they
3 were there, they know what happened and therefore they
4 need to keep that, you know, to themselves for their own
5 protection and the integrity of the enquiry, you know,
6 it goes hand in hand.

7 Q. Did you go through all of these bullet points with the
8 officers in the PIM suite that day?

9 A. So, yes. Yeah.

10 Q. Take us on to the next one, introduction to --

11 A. So team, and that's obviously what you do at the
12 beginning, so that's why this is slightly out of the
13 order you would do it, which ties in with the log
14 actually. Obviously you're going to introduce yourself
15 and the people that are with you.

16 Q. What does it mean, "Roles primary, secondary, tertiary,
17 Prods, etc"?

18 A. Again, primary, secondary, tertiary, are not particular
19 language that I would use in relation to post-incident
20 management. Production -- sorry, prods will be
21 productions, so that comes in from that investigative
22 strand. Are there things that we need to take
23 possession of as productions? What you might do when
24 you form a PIM team is appoint a secondary PIM, so
25 I would then become -- I would probably use "lead PIM",

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1 to be honest, but primary PIM, and you might have
2 a support PIM, a deputy PIM, a secondary PIM, someone as
3 part of the PIM team to help. I don't think it matters
4 what that language is, really, but --

5 Q. Did you have someone that day?

6 A. So I didn't have anyone else PIM trained, I was relying
7 on Jane to support me and, as we've discussed,
8 Amanda Givan. Keep going?

9 Q. Yes, please keep going.

10 A. So again, explain the process and give an idea of time,
11 and we've touched on that already, that if they think
12 this is going to be "I'll be home in half an hour", then
13 you need to give them that reality check that actually
14 this is going to take four or five hours to go through
15 all of this, depending on what the investigative
16 requirements are and so on. So that is the important
17 part.

18 I explain that process, there's things that we need
19 to check, I'll be speaking to the SIO and there will be
20 things the SIO wants and we'll need to facilitate that
21 and so on.

22 So just explaining practically the things that are
23 going to happen during the course of this next period of
24 time and just explain how all these things soak up time,
25 and therefore it's -- and then that ties into if it is

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1 five plus hours, is that the end of your duty time or
2 not, and so on.

3 Q. You talked about being with Jane Combe and Amanda Givan
4 at the time. Were there any other senior officers
5 present in the PIM suite with you --

6 A. No, this was --

7 Q. -- when you were giving this?

8 A. No, this was the three of us and the officers.

9 Q. Sorry to interrupt.

10 A. No, no.

11 Q. So:

12 "Alleviate concerns about conferring -- statement re
13 this ..."

14 A. So that's -- so 7.91 will refer to the paragraph in the
15 SOP, and that's really replicated on the log, that --
16 the bit that we were -- just up a bit, the bit that we
17 were talking about in terms of the log. So that's the
18 important bit in terms of the conferring reminder.

19 So --

20 Q. Is that on the previous document we were looking at?

21 A. Yes.

22 Q. PIM log?

23 A. Yes, yes.

24 Q. PS00387 and it was page 3, I think, that we were looking
25 at. Yes. We see on the left-hand side:

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1 "'As a matter of general practice officers should
2 not confer with others ..."

3 A. That's right.

4 Q. Is this the part of the PIM log that you relied on when
5 you were talking --

6 A. Yes.

7 Q. -- to officers about conferring?

8 A. That's right.

9 Q. Can we have a look at that, please, up on the screen,
10 you can look at the hard copy.

11 A. Yeah.

12 Q. As you read out the paragraph that's in quotations, can
13 you explain to us how you adapted that when you spoke to
14 the officers?

15 A. So before even using these words, I explained to the
16 officers in -- in -- well, I actually explained to the
17 officers where this has evolved from in terms of it's
18 a firearms context that much of this comes from and
19 we're adapting it for a non-firearms circumstance. And
20 then actually the language at the top and the bottom of
21 this paragraph are kind of universally useful, and so:

22 "'As a matter of general practice officers should
23 not confer with others before making their accounts
24 (whether initial or subsequent accounts)'."

25 So I would have said those words. I probably also

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1 said -- so explained what -- so "accounts" is a very
2 post-incident procedure language, and officers that are
3 not familiar with this would be more familiar with the
4 language of "statements" or "operational statements" or
5 that kind of thing, so I probably explained that bit to
6 them.

7 The next bit that's in sort of italics:

8 "The important issue is to individually record what
9 their honestly held belief of the situation was at the
10 time force was used."

11 That's very firearms focused language. So if you
12 said that to a firearms officer, they would absolutely
13 understand what you were talking about. If you said
14 that to people that have not had that training or
15 awareness or whatever, then they wouldn't actually
16 understand what that means. And so I didn't talk to
17 them about honestly held belief, because I didn't think
18 it was irrelevant (sic) to their role.

19 Q. What did you say from your best recollection?

20 A. So the bit at the top and the bit at the bottom. So if
21 I just come on to the bit about:

22 "... [they] should not confer with others before
23 making [any] accounts ..."

24 And by "accounts" we're talking about statements,
25 and:

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1 "[There's no] need for an officer to confer with
2 others about what was in their time."

3 So this refers to the time force was used.
4 I broaden that out to "the incident". So there is no
5 need to talk to each other about what happened about the
6 incident. So that was the sort of language that I was
7 giving. That's how I adapted this from the firearms
8 specific language to the sort of more general sort of
9 approach.

10 Q. Thank you.

11 Then the words:

12 "There should therefore be no need ..."

13 Did you go on to say that? Not in italics.

14 A. Yeah, sorry, so there's no need for officers to -- so as
15 well as using the word "confer", I actually probably
16 used the phrase "speak to each other about it", because
17 I don't assume that everyone knows what "confer" means,
18 I suppose, so put it in very plain English, there is no
19 need to speak to each other about what has happened at
20 this incident.

21 Q. So for the words that are in italics, did you miss them
22 out completely?

23 A. Yes. I don't recall -- deliberately not talking about
24 "honestly held belief", because I thought that would
25 complicate things and wasn't relevant, because it's very

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1 firearms specific language.

2 Q. Then the words at the end of that paragraph, which are
3 not in italics, did you read them subject to changing
4 the word "confer"?

5 A. Yes, that's right.

6 Q. Can I ask you, just to be clear, did you say "there was
7 no need to speak about", or did you say "do not speak
8 about"? You'll see here the final bit of this
9 paragraph --

10 A. Yeah.

11 Q. -- "There should therefore be no need for an officer to
12 ..."

13 And you said "speak about", or did you say "do not
14 speak about"?

15 A. I can't recall, as I sit here today, but I think it --
16 I will have used the language of "no need to speak
17 about", "there's no need to speak about" and
18 therefore -- I probably used both phrases, to be honest,
19 because it wasn't, it wasn't as dry as me reading this
20 and then moving on to something else. I tried to
21 actually explain this in -- in police officer
22 understanding, so that they understood what I was
23 saying. So I probably both said the phrase "there's no
24 need to speak about it" and "do not speak about it".
25 That would be a normal way -- because I paraphrased this

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1 rather than just read it out in a sort of verbatim dry
2 sense. I tried to bring it to life, I suppose, in terms
3 of what it means to the officers.

4 Q. And then at the end of that page there, it says:

5 "Officers can still talk to each other -- it is the
6 most natural thing for them to do."

7 Was that something that you discussed with the
8 officers, or was that really there as a prompt for you?

9 A. No, I -- so again, I wouldn't have used that language,
10 but that's why I would have been specific about talking
11 about the incident. So if you want to talk about the
12 football, if you want to, you know, whatever, if you
13 want to -- that's the bit about it's most natural to do
14 so, you can talk about other things, you do not talk
15 about the incident. That's the key differential here
16 between conferring and a normal human interaction in
17 terms of conversation.

18 Q. Can I ask, you've talked about PIM and the procedures
19 that are adopted, we've looked at the bullet points,
20 let's go back to the previous document we were looking
21 at, the one with the bullet points, PS18503. You were
22 taking us through these bullet points.

23 A. Yeah.

24 Q. Keep going up the page, please. And we'd come to the
25 bullet point about conferring. What's the next bullet

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1 point?

2 A. So the next one is "Media issues/concerns". So again,
3 the role of the PIM in relation to media is not -- is
4 not part of the development of media strategies or
5 statements or anything like that, but it is making the
6 officers aware that -- of statements that are going to
7 be published.

8 So much later on actually in the day, I was given
9 a press release that was going to go out and I shared
10 that with the officers who were present in the PIM suite
11 at that point, just so that they're sighted on what's
12 going out into the press, and that's to deal with this
13 welfare aspect of -- that media reporting will impact on
14 them as individuals as much as anyone else.

15 Q. And then:

16 "Explain how productions will be taken ..."

17 Tell us what that bullet point's about?

18 A. Yeah. So you'll see after -- the hyphen after is --
19 refers to tactical firearms unit, instructors and so on.
20 That's not obviously relevant for this. It's more your
21 production officer SOCO, scenes of crime officer there.
22 So one of the things that the SIO had asked me to do was
23 they wanted --

24 Q. Sorry, I thought you said "SAO", you meant SIO.

25 A. SIO. So the senior investigating officer had said that

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1 they did want to recover the equipment and outer
2 clothing of every officer.

3 Q. Was that something you were aware of when you went into
4 the canteen?

5 A. No, not at the beginning.

6 Q. Not at that time?

7 A. So I met with the SIO later and was given that sort of
8 investigative request, and indeed I spoke to the lead
9 detective who was going to recover the clothing in
10 a forensic way. And then my role is to -- is the
11 practical facilitation of that. So, well, both for the
12 officers to be aware that that's the request, because it
13 does step aside from the SOP in terms of the expectation
14 of clothing from a firearms context, but obviously,
15 we're in a different context, so how -- well, what and
16 how it was going to be recovered. That came from the
17 investigation team, "This is what we want and this is
18 how we want to recover it."

19 Q. And that's later --

20 A. That is later, yes.

21 Q. -- for the purposes of this bullet point --

22 A. Sorry, you're right. I'm jumping ahead --

23 Q. -- you're preparing people for that?

24 A. Yeah. So without knowing what is going to be asked for,
25 it's about there may be items of equipment or so on that

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- 1 may be asked for by the investigation team.
- 2 Q. And then the final bullet point there is:
- 3 "Initial account -- for the IIO."
- 4 First of all, tell us who is the IIO?
- 5 A. So that's the initial investigating officer, so it's
- 6 terminology that again has a predominance in
- 7 post-incident procedure and probably not widely used
- 8 beyond post-incident procedure. And the language of
- 9 SIO, senior investigating officer, is the more commonly
- 10 used language, and indeed nowadays when PIRC are
- 11 involved, they call them senior investigators or so on.
- 12 So --
- 13 Q. Effectively is the IIO the same as the SIO?
- 14 A. Yes, it is the person who is responsible for the
- 15 investigation side.
- 16 Q. IIO comes from the standard operating procedure?
- 17 A. Yes, that's right.
- 18 Q. And the phrase there "initial account", tell us what
- 19 that relates to in terms of the message you're sharing
- 20 with the officers?
- 21 A. So again, to try and not jump ahead, in terms of at the
- 22 meet and greet stage, there's an expectation that some
- 23 sort of account will be given by the officers before
- 24 they finish duty.
- 25 Q. And did you go through all of these bullet points on the

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- 1 day in the canteen or the PIM suite at 11.30 that
2 morning?
- 3 A. Yes, that's right.
- 4 Q. As part of this, were there questions? What was the
5 response from the officers?
- 6 A. So, there weren't any obvious questions coming out of
7 it, it was more listening to me and understanding. So
8 nobody had particularly raised any concerns about any
9 specific aspect.
- 10 Q. How long did this take?
- 11 A. Erm ... my recollection is somewhere around 20 minutes,
12 that kind of timeframe. But I haven't recorded when
13 I finished it, so it is a recollection as opposed to I
14 have recorded --
- 15 Q. Did Jane Combe say anything during this time?
- 16 A. No.
- 17 Q. Amanda Givan?
- 18 A. No.
- 19 Q. Do you remember if any of the specific officers who were
20 there in the PIM suite said anything to you?
- 21 A. No.
- 22 Q. We've heard evidence that, as part of something that's
23 been described as control measures, an independent
24 officer should have been sent to sit with attending
25 officers in the canteen that day. Now, we know that

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1 wasn't done, there was no independent officer. Was that
2 something that you noticed being absent?

3 A. No. I'm interested in the language of "independent
4 officer" as well. So the PIM, I would suggest, is the
5 independent officer. That's why it's independent of the
6 investigation. So my -- that's the first time I've come
7 across that. So my view is that that's the PIM process.
8 That's why you have a post-incident manager appointed.
9 I was independent of both the line management of the
10 officers and independent of the investigation.

11 And one of the roles of the PIM, as well as
12 providing the conferring reminder that we've gone
13 through, is to ensure that those things are adhered to,
14 and indeed the facilitation and the responsibility of
15 delivering the process is one that sits with the PIM,
16 and I am -- and I am independent to the line management
17 and the investigation. So --

18 Q. Were you with the officers that day and remained with
19 the officers that day?

20 A. Yeah, so myself -- so this is why you have a support
21 team, so at times I had to leave the PIM suite, the
22 canteen. So, for example, when I went to speak to the
23 SIO, I was outside of the room for that period of time,
24 and that's why Jane and/or Amanda would have been in the
25 room when I left, and, you know, so when I spoke to

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1 Stuart Houston that would have been outside the room as
2 well.

3 So there are some practical things I have to
4 facilitate outside the room, and therefore you have
5 somebody inside the room as well. Hence, why you need
6 a support mechanism. But actually, I spent the vast
7 majority of the day in the canteen, in the room.

8 Q. Was Jane Combe with you?

9 A. Yeah. So again, there were things that she went off to
10 do to support the process, but if she wasn't away doing
11 various things, then she was in the room as well. And
12 likewise Amanda Givan.

13 Q. So between the three of you, as part of PIM and PIM
14 support, was there always at least one of you in the
15 room at any given time?

16 A. That's my recollection, yes.

17 Q. And from your perspective, as PIM manager, were you
18 there with a view to monitoring the details that you've
19 given to the officers and in particular I'm thinking
20 about the information you gave them about not conferring
21 or not speaking to each other?

22 A. Yeah. That's a really important part of the role, and
23 so it's not -- so it's not just about reading the words
24 off an aide memoire, it's about both bringing that to
25 life so the officers understand it and then making sure

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1 that doesn't happen. And my recollection and my
2 records, you know, my statements immediately after,
3 people didn't talk about the incident when I was present
4 in that room. In fact, conversation generally was
5 really limited.

6 Q. So from about 11.30 when you arrived in the PIM suite,
7 from your recollection, there wasn't discussion --

8 A. No.

9 Q. -- about the events at Hayfield Road --

10 A. No.

11 Q. -- between the officers who had been at the --

12 A. Correct.

13 Q. -- event?

14 Can you tell us, how is the PIM procedure that
15 you've described and you shared with the officers, how
16 was that different from what normally happens?

17 A. So it's -- so there's a process, and there's a series of
18 procedures, and officers are controlled within that
19 process. When you say "normally", are you referring to
20 sort of day-to-day policing --

21 Q. Yes.

22 A. -- kind of matters?

23 Q. Well, you've described how post-incident procedures were
24 set out in the SOP, that the role of post-incident
25 manager would be maybe not very well known.

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1 A. No.

2 Q. I'm interested in how the procedure differed to what
3 they may already have known about.

4 A. So I mean, it will be very different from what they
5 experienced. So a uniformed police officer will,
6 you know, work from a particular -- will work from
7 a particular station, will attend a variety of calls
8 during their working day. Some of them might be quite
9 impactful on them, and they will -- and they might stay
10 involved in that call for the whole period of their
11 duty.

12 They, at some point, will return to the police
13 office and the line management would potentially
14 instigate then sort of hot debrief activity and would
15 check in on the officers to see if there are any welfare
16 concerns. And, of course, there's then, you know, in
17 policing there's normally a criminal justice process
18 that's needed to be followed, be that a, you know,
19 recording it as a crime, you know, reporting it to the
20 Procurator Fiscal.

21 And there's also -- there's normally internal
22 paperwork that needs to be completed. And also, as
23 I say, line management should be checking if that
24 incident has had any impact on the officers, and there's
25 a number of things -- and these are ever improving --

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1 there's a number of welfare support mechanisms that can
2 kick in for officers.

3 So, you know, we can -- well, from simple things in
4 terms of just the practicalities around officer welfare,
5 maybe an officer needs time off, to more formal things
6 like TRiM assessment, so that's formal risk management
7 processes which assess the impact an incident has had on
8 an officer, occupational health referrals, as many
9 organisations have, employee assistance programmes.

10 So there's a range of sort of welfare support
11 mechanisms that should be triggered by a line manager
12 during normal day-to-day process. The provision of
13 statements is something that, depending on the criminal
14 justice process that's been followed, you know, there
15 are timeframes that those statements would be provided
16 in, and so on and forth. Whereas I suppose the PIM
17 process brings all of that together and just puts a bit
18 more structure and management around it.

19 So some of the same things will happen in normal day
20 business and some of them won't. And the PIM process
21 really is just to put in place that structure to achieve
22 some of those things.

23 So the provision of accounts, I would say, is quite
24 a specific post-incident procedure process that will be
25 worth discussing in more detail to understand it,

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1 because that does differ from normal operational
2 business.

3 Q. Right. We'll definitely come on to the SOP, and we'll
4 go through each step in turn.

5 Just to finalise some questions about the PIM suite,
6 what steps did you take to secure the PIM suite and
7 record individuals who may be entering or leaving?
8 We've heard the canteen can be accessed from
9 different -- from the rear of the building and different
10 areas.

11 A. Yeah. So probably worth going back just one stage
12 there. So because of my time of appointment, the
13 officers were already back at Kirkcaldy, which was their
14 normal place of work and where they could access their
15 lockers with their own clothing, and so on, in,
16 a decision had been made by someone to -- for the
17 officers to go into the canteen, which didn't seem
18 an unreasonable decision at the time. When I was
19 appointed as the PIM, I sort of reviewed where the
20 officers were and it might be worth just saying
21 something about designated PIM suites.

22 Q. I was going to ask you about that.

23 A. Okay, so there are designated PIM suites around, again,
24 at 2015, in relation to firearms, they typically were in
25 locations where firearms officers worked from. It's

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1 worth probably explaining that it's normally a room with
2 some side rooms that has a normal day-to-day function,
3 so it might be a training room, it might be a briefing
4 room, and there are some, usually people's offices that
5 are offset. So the PIM suite is simply an area with
6 some supporting rooms that can be used to facilitate
7 a PIM process. So it's kind of no more and no less than
8 that.

9 And so my decision-making on -- in May 2015 was so
10 the officers are in a space that they're comfortable
11 with and they're already in and have been in for
12 a number of hours. From a practical point of view,
13 their equipment is there. Sorry, their lockers are
14 there, and -- yeah, so you mentioned doors. I mean, on
15 reflect -- I think there were two doors in, both access
16 from the same corridor, so it's not a room that's
17 surrounded by doors, it's the external side of the
18 building and there are two doors into the same corridor.

19 So option A was to keep the officers there.
20 Option B was to move them to a designated PIM suite
21 which Rosyth was the nearest designated PIM suite.
22 There was the logistical practicalities of doing that.
23 Both rooms were unfamiliar to me as opposed to the
24 incident manager, so I hadn't been to Kirkcaldy and
25 I hadn't been to Rosyth. So there was no advantage to

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1 me as a PIM in terms of either location. And actually,
2 from a very practical point of view, Kirkcaldy seemed to
3 be the best choice to convert the space to a PIM suite,
4 and that's what we did.

5 So specifically about the security of the room,
6 I didn't feel it was necessary to post a police officer
7 outside, although that is an option that was available
8 to me, but I didn't put a police officer outside the
9 door.

10 My recollection is one officer came into the
11 canteen, you know, later on in the day when they were
12 presumably turning up for duty, and as soon as they saw
13 it was being used as a -- in a more official capacity,
14 they left -- they put their head in the door basically
15 and left. That's the only person I recall coming into
16 the room that wasn't part of the PIM process.

17 And in terms of controlling people that had come
18 in -- I'm trying to think of an example of how that
19 would happen. But if somebody came right into the room
20 and started engaging with the officers, for example,
21 then not only would I have intervened with that
22 individual, but I would then have recorded it in the log
23 and there's no need to do that.

24 Hopefully that explains it and answers the question.

25 MS GRAHAME: Thank you.

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1 I'm conscious of the time.

2 LORD BRACADALE: A 20-minute break at this point.

3 (11.30 am)

4 (A short break)

5 (11.50 am)

6 (Proceedings delayed)

7 (11.53 am)

8 LORD BRACADALE: Yes, Ms Grahame.

9 MS GRAHAME: Could we go back to your PIM log, please, and
10 let's look at page 3, first of all. You will see at the
11 bottom, it says:

12 "Under no circumstances will officers be separated
13 at the PIM suite."

14 Was it something that you considered, separating the
15 officers?

16 A. No. It's not part of the post-incident procedure to
17 separate officers, and it wasn't a consideration. I can
18 provide rationale, if you like.

19 Q. So for post-incident procedure, is it under no
20 circumstances will they be separated?

21 A. So, in 2015, that was the position, leading up to 2015.
22 But even then, I think there's a few things to
23 understand about the post-incident process, which is
24 this is a process for -- and they were known as
25 principal officers at the time in PIM speak, they're now

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1 known as key police witnesses, and actually "key police
2 witness" is probably a more explanatory term.

3 So the expectation, my expectation is that officers
4 that are involved in the post-incident process are key
5 police witnesses, are witnesses because they're
6 professional police officers.

7 So a circumstance where it wouldn't be appropriate
8 for an officer to be in a PIM suite would be if they
9 were a suspect. So if there is a -- you know, if there
10 was some sort of criminal allegation against them, then
11 they need to be dealt with differently, and how they are
12 dealt with depends on what status they would have, and
13 that's a matter for the investigation side. And it's
14 not that you don't still consider welfare support for
15 that officer, but clearly, there are -- if they're
16 a suspect in a crime, they would be treated as a suspect
17 of a crime, like anyone else would be, and therefore
18 there's other processes that kick in.

19 So you would not expect the officers, any of the
20 officers to be designated as suspects for crimes,
21 otherwise they shouldn't be in the post-incident
22 procedure process.

23 So --

24 Q. So an underlying assumption --

25 A. Yeah.

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1 Q. -- that anyone involved in the process with you as
2 post-incident manager will be a witness?

3 A. Yeah.

4 Q. Suspects would be treated separated from the other
5 officers?

6 A. Yeah. And dealt with under other criminal justice
7 processes.

8 Q. Yes. There may have been some concerns expressed about
9 the hearing that maybe police officers were being
10 treated differently from civilians.

11 A. Yeah.

12 Q. Is that your experience of post-incident procedures, or
13 not?

14 A. So specifically around separation?

15 Q. Around separation.

16 A. So, yes, is my answer to that. So from -- civilian
17 witnesses may well be separated prior to statements
18 being taken. Police officers are not. The rationale
19 for that is the very reason we have a post-incident
20 procedure. So these are -- so there's a difference
21 between a civilian witness and a police witness. A
22 civilian witness is observing the series of events, or
23 is involved in the series of events. The police witness
24 has been -- has been called and is there in
25 a professional capacity and therefore they're

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1 a professional witness to that incident.

2 The post-incident procedure is there to manage the
3 needs of the enquiry and for them to provide a
4 professional account as a professional police witness
5 and it's also there to support their wellbeing. So
6 again, it goes back to the balance of these.

7 The reason for separating would be the contamination
8 of evidence. The way that that's managed in the PIM
9 suite is, as we've already discussed, is by the
10 conferring, the conferral reminder, the fact that
11 an independent individual is within the room, and if
12 there's any conferring that there's an intervention,
13 there's records of it, if conferring happened,
14 et cetera.

15 But the end result is the same, but the process to
16 achieve that end result is different. And the reason we
17 can put a different process in place is because they're
18 professional police witnesses, they're professional
19 officers, and we have control over them in the sense
20 that they're our members of staff and so we can,
21 you know, we can instruct them to come into the PIM
22 suite to take part in the PIM process, we can give them
23 the conferring reminder, we can make sure that that
24 reminder is in place.

25 So you're achieving the same result through

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- 1 a different methodology, but it is treating them
2 differently in that -- in answer to that question, for
3 solid reason.
- 4 Q. Thank you. And are civilian witnesses always separated
5 if they're eyewitnesses to an incident?
- 6 A. Not always, though I think there would be circumstances
7 where they would be and there would be circumstances
8 where they wouldn't. And I think that will be based on
9 individual, you know, individual circumstances of the
10 incidents they've been involved in, practical matters
11 about is it safe to separate them or is it practical to
12 separate them, the amount of police officers that are
13 there in order to do that. So there's a number of
14 factors that would probably, you know, end up in the
15 decision that they're either going to be separated or
16 not.
- 17 Q. But not part of your role as post-incident manager to
18 consider separating the officers on 3 May?
- 19 A. No, and I suppose in that, you know, what I've just
20 said, you can see how it's very much aligned to the
21 investigative process. So from the lens of
22 an investigator, I can understand why they might say,
23 "Oh, we would want the officers to be separated",
24 because they're looking at it from the lens of an SIO,
25 from a detective, from an investigation.

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1 So they'll be aligning their thinking to how they
2 make normal enquiries and this goes back to the point
3 about post-incident procedures was not widely understood
4 across the organisation. From the lens of
5 a post-incident manager, separation is not the right
6 thing to do. And there are other control measures in
7 place to avoid contamination of evidence, and having
8 them as a team in the suite and treating them as
9 witnesses in that context, professional witnesses, is in
10 support of their wellbeing, but still achieves the same
11 aim for the investigation.

12 So I can see why, from an investigation point of
13 view, you may well have the discussion around
14 separation, because that would probably be a normal
15 discussion around an investigation, as we sort of just
16 touched on.

17 From a post-incident manager's perspective, it's --
18 in 2015, it was not a consideration to separate them.

19 Q. If a situation arises where the PIM would not separate
20 officers, but the SIO wishes the officers to be
21 separated, for whatever reason, how is that conflict, if
22 I can call it that, resolved?

23 A. So it depends on the reason. So it would have to be for
24 good reason.

25 Q. What would you consider to be a good reason if you were

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1 in the role of PIM? If an SIO came to you and said,
2 "I have a good reason to separate these officers", can
3 you give us an example of what that might be?

4 A. Not really, because the best example would be that
5 they're a suspect of a crime, in which case they
6 shouldn't be in the PIM process.

7 Q. So if they were a suspect, they would be separated?

8 A. Yes.

9 Q. Thank you.

10 Can we go back to page 13 of your PIM log, please.
11 You kindly read out the notes that you had taken in
12 relation to the 11.30 meet and greet, and I'd just like
13 to go through the individual points with you --

14 A. Yeah.

15 Q. -- to ask you about those.

16 So:

17 "Meet & Greet all officers as per my aide memoire.

18 Issues raised.

19 Finishing time."

20 What's that?

21 A. That goes back to their duty time, the length of time
22 that we think we're going to need them for and therefore
23 when they will finish duty. And that's actually, from
24 a very practical point of view, when will they go home?

25 Q. "FME required for CS cross-contamination."

Transcript of the Sheku Bayoh Inquiry

1 Explain that.

2 A. So I'd been made aware that CS sprays had been used --

3 Q. How had you been made aware of that?

4 A. That was in the 9.30 briefing, the reference to CS had

5 been discharged and was not effective, and actually the

6 officers came forward with that in the PIM suite as

7 well, that there had been -- so CS is a spray, but you

8 can, you know, it's not just where it's targeted, it can

9 also --

10 Q. Disperse.

11 A. Yeah, disperse and cross-contaminate other people that

12 aren't directly there, so --

13 Q. Had that been raised by the officers with you at 11.30?

14 A. Yeah, during that meeting, yeah.

15 Q. Right. So they had actually spoken to you during that

16 time?

17 A. Yes, yeah. Sorry.

18 Q. And what was your concern about cross-contamination?

19 A. So, "CS cross-contamination", what I'm referring to

20 there is that -- sorry to use this as an example, if I'm

21 going to spray you, these individuals may also be

22 cross-contaminated with the CS. So in terms of the

23 clothing or equipment, for example, though the primary

24 focus would be on your equipment and clothing, there

25 might be cross-contamination of that CS on these

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1 individuals here and therefore you need to think about
2 what you're doing with them. Because it -- so it could
3 reactivate, you know, later on, you could be sitting in
4 the PIM suite and suddenly start feeling the effects of
5 CS.

6 Q. We've heard some evidence that if it's sprayed even on
7 your clothing, later it can move --

8 A. Yeah, that's exactly it.

9 Q. -- and affect you again.

10 Then what does "Holding Statement" refer to?

11 A. So that's the reference to the media. So we touched on
12 it earlier in terms of, you know, normally in
13 investigations a holding statement is either proactively
14 put out into the media or an "if asked", if the media
15 ask about the incident, then there will be a statement
16 that's prepared. As I say, it's normal in the
17 post-incident procedure that that statement would be
18 shown to the officers so they understand what's been put
19 out in the public domain from a press point of view. So
20 that's what that refers to. And --

21 Q. And is that where you prioritise their wellbeing and the
22 awareness they have of what's going out in the media?

23 A. Yes, yeah.

24 Q. "Statements to be given", I'm interested in what you
25 mean by that?

Transcript of the Sheku Bayoh Inquiry

- 1 A. Yeah. So there is -- there are, within the
2 post-incident procedure, there are accounts that are
3 provided, and the expectation is that they'll be
4 provided as you go through the process, and that's why
5 I've written it there, because it's an issue that needs
6 to be dealt with during the post-incident procedure.
7 And you'll see that I have written "with SIO" in terms
8 of that's an interaction with the SIO that I need to
9 have about that.
- 10 Q. You've given the -- you've used the aide memoire, you've
11 mentioned the possibility of statements or accounts
12 being given, and then you've noted it in your PIM log,
13 and the action for that is that that is now with the
14 SIO. Is that for him to consider?
- 15 A. Yeah. So these points as well as being points that I'm
16 covering off in terms of explaining the process, it's
17 almost an action list as well in terms of -- so not --
18 when I've written this at 11.30, not all these things
19 have been done, these are things that need to be done
20 during the rest of the process and the person that I
21 need to interact with to achieve it is down that
22 right-hand side.
- 23 Q. Did you prepare these notes in advance of going in to
24 speak to the officers at the PIM suite or after you came
25 out?

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- 1 A. No, this will have been -- so I -- no. The 11.30 entry
2 will have been written after I've spoken to them.
- 3 Q. Right. Where it says "with SIO" and there's a tick next
4 to it, what does that mean?
- 5 A. So the tick will be that that conversation has happened,
6 I now have the update on that action.
- 7 Q. Do you remember having a conversation with the SIO about
8 statements?
- 9 A. Yes.
- 10 Q. When was that?
- 11 A. So, just further down the same page, I've got an entry
12 there at 13.40, and it says:
13 "Initial discussion with SIO."
- 14 Q. So you would note the discussion at 13.40 and then go
15 back and tick the "with SIO" entry?
- 16 A. Yes.
- 17 Q. We will come on to the 13.40 entry in a moment.
18 Then we see "Legal advice".
- 19 A. Yeah.
- 20 Q. Was that in relation to the aide memoire that you'd
21 given them?
- 22 A. Yeah. So again, part of the process is that the
23 officers are entitled to access legal advice, that legal
24 advice is accessed via the Federation rep, because it's
25 their arrangements. And so that's why it would be for

Transcript of the Sheku Bayoh Inquiry

1 Amanda to arrange that legal advice for the officers.

2 Q. You say that is for Amanda Givan to arrange, is that

3 part of your job, or is that part of your PIM support

4 who in this case was Amanda Givan?

5 A. So it's my job to facilitate it and I --

6 Q. What does that mean?

7 A. Well, to make sure it happens, and the way I facilitate

8 it is by asking Amanda to do it.

9 Q. Right. You don't ask Amanda to bring lawyers in or

10 discuss it at that stage?

11 A. So that is an option. I think that there could be

12 a face-to-face consultation, that's a matter for the

13 legal representative, if they choose to attend at the

14 PIM suite. So that's written within the SOP that it's

15 acceptable to -- and that's actually why you would have

16 a break-out room available, so that an officer could

17 have a face-to-face interaction with a solicitor. On

18 this occasion, it was done over the phone. So it could

19 be either.

20 Q. When you say, "On this occasion, it was done over the

21 phone", what are you referring to?

22 A. So I've asked Amanda to arrange legal advice, and my

23 understanding is that the officers spoke to a legal

24 adviser over the phone. So there was -- so officers

25 left the main canteen, the main room, and went into

Transcript of the Sheku Bayoh Inquiry

1 a side room with Amanda, and, as I understood it, spoke
2 to a legal adviser at that point.

3 Q. And that was with Amanda Givan present?

4 A. Yeah, from my recollection, yes.

5 Q. When did that take place?

6 A. So ... so that will have been ongoing from after the
7 initial meet and greet. So obviously, Amanda was with
8 me for the meet and greet, and likewise Jane was. So
9 the actions that we were able to carry out obviously
10 will have been asked to them straightaway and they were
11 able to do that.

12 I'm just looking forward to see if I recorded
13 officers moving into that --

14 Q. I was going to ask you, is there anything else in your
15 PIM log that would help us identify when that was
16 happening?

17 A. So my recollection is it was kind of an ongoing process
18 from, you know, after I finished speaking and spoke to
19 Amanda and Jane, so about 12 o'clock, you know, onwards.

20 Q. How many of the officers took the opportunity to go into
21 the side room and discuss this with a legal adviser?

22 A. Yeah. I don't recall. I don't recall how many.

23 Q. From your recollection of events in the PIM suite, was
24 there any discussion about Mr Bayoh's race that day or
25 the impact his race may have --

Transcript of the Sheku Bayoh Inquiry

- 1 A. No.
- 2 Q. -- on the media?
- 3 A. No. Not --
- 4 Q. Or the public perception of him?
- 5 A. No, not in the PIM suite, no.
- 6 Q. Let's look at -- you say at 12.15:
- 7 "Change T-shirt, cross-contamination with CS, put in
- 8 bag for PC Ash Tomlinson."
- 9 And you discuss the Federation rep and Scott Maxwell
- 10 getting food. Was it of any concern to you, as PIM --
- 11 as post-incident manager -- that acting Police
- 12 Sergeant Maxwell had been at the scene and part of the
- 13 events, but was taking a sort of welfare role on the day
- 14 in the canteen?
- 15 A. I think -- I think as the line manager, the first line
- 16 manager, I probably would have expected him to carry out
- 17 part of that role, recognising that he's been supported
- 18 more broadly by the process, but he's still the first
- 19 line manager of those officers. So that doesn't feel
- 20 un -- out of the ordinary.
- 21 Q. What steps did you take to check that Sergeant Maxwell
- 22 felt able to carry out a sort of welfare role?
- 23 A. So I spoke to him, you know, prior -- well, during the
- 24 course of the meet and greet. There was -- you know,
- 25 I spoke to him before he went out. He's not -- not come

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1 forward and said that he felt unable to carry out that
2 role. I would have expected him to have said that if he
3 felt -- it didn't seem something that he couldn't
4 achieve and he didn't say that he wasn't willing to
5 achieve it. So from either side of that, there didn't
6 appear anything of an issue with that.

7 Q. Then we see "PC Paton changed his clothing in his
8 locker".

9 And then at 13.40, you describe an initial
10 discussion with the SIO, Superintendent Pat Campbell.

11 And if we can move up the page, please. So was this
12 the -- you say, "Initial discussion", was this the first
13 discussion that you'd had with Pat Campbell?

14 A. Yes, yeah.

15 Q. And that was at 1.40 that day?

16 A. Yeah.

17 Q. Where did that discussion take place?

18 A. That was in the sort of corridor outside the PIM suite.

19 Q. Who else was present?

20 A. It was just myself and Pat.

21 Q. How long did that discussion last?

22 A. So about five minutes.

23 Q. Tell us about what -- we should look at the next page,
24 actually, page 14, as well. It finishes at the top "at
25 this time". So it says:

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1 "Initial discussion with SIO,
2 Superintendent Pat Campbell -- PIRC enquiry.
3 Take external clothing.
4 No need to take statements at this time."
5 Do you see that entry?
6 A. Yeah.
7 Q. When did you write that entry?
8 A. So had the conversation with Superintendent Campbell
9 outside in the corridor, and then in that conversation
10 he also asked if he could speak to the officers.
11 Q. Right. You will see that on page 13, it says:
12 "13.40 Initial discussion ..."
13 A. Yeah. Yeah.
14 Q. And then on page 14, it says 13.41 --
15 A. Yeah.
16 Q. -- he goes to speak to the officers.
17 A. Yeah.
18 Q. Was that discussion only a minute?
19 A. No. So what's happened is I've had the conversation
20 with him outside, I've then come inside and I checked
21 with the officers if they were okay with the SIO coming
22 in to speak to them, they've said that they were happy
23 with that, I've gone back outside, passed that on to
24 Detective Super, he's come into the PIM suite, spoke
25 with the officers. I've then sat down and recorded

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1 13.41, and then I've also done the entry of my
2 discussion with him. So the entry at 13.40, I wrote as
3 I was sitting at the table in the PIM suite, as he's
4 speaking to the officers. So the 13.41 is an accurate
5 time in terms of, you know, I've looked at my watch and
6 it's 13.41, I've then used 13.40 as the time that a few
7 minutes before I was speaking to him, but it was more
8 than a minute of a conversation, so I can see why
9 that ...

10 Q. So as you wrote the entry 13.40, that was your
11 recollection of a discussion that had taken place --

12 A. Just prior to --

13 Q. -- just prior to --

14 A. Yes.

15 Q. -- sitting in the canteen.

16 Tell us about that discussion and tell us what
17 Pat Campbell said to you.

18 A. So the -- so the discussion -- so this is the point
19 where I get my, what the -- this is the balance of
20 investigation and wellbeing. So what are the
21 investigative requirements, and from the SIO in relation
22 to the officers. So this is that discussion. And
23 essentially, there are only two strands to the
24 discussion. One is about the clothing --

25 Q. We'll move back up the page, so we can see page 13, so

Transcript of the Sheku Bayoh Inquiry

1 we can see the notes.

2 A. So in terms of the investigative requirements --

3 Q. Sorry, if we can just see --

4 A. Sorry.

5 Q. -- the 13.40 entry, please.

6 A. Yeah. So --

7 Q. You mentioned the clothing, sorry.

8 A. Yeah, sorry, I note just having looked back, obviously

9 he has referenced at this point that it is going to be

10 a PIRC led enquiry. So in terms of -- I think

11 I probably knew this before, but this is him confirming

12 to me that it's a PIRC led enquiry in this discussion.

13 Q. Had you had any contact with PIRC at that time?

14 A. No.

15 Q. Thank you. Sorry.

16 A. So there's two strands to the investigative requirements

17 on the officers. The first strand is around the taking

18 of external clothing and we had a discussion around

19 that, because if we were -- looked at the post-incident

20 procedure, SOP, it's not normal to take clothing.

21 Again, it goes back to these are professional police

22 witnesses, so what evidence are you intending to get out

23 of the -- these are their items of clothing. Within the

24 guidance, it does say there might be exceptional

25 circumstances you would want to take clothing. And the

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1 SIO view was that he wanted to take clothing off all of
2 them, so that -- just so they've got a comprehensive
3 record of everyone's clothing and equipment.

4 So I pointed out that it wasn't normal in
5 a post-incident procedure, but also recognising this was
6 a firearms post-incident procedure and, therefore,
7 you know, he would have a different view on that, as he
8 did. And so we agreed that we're going to take external
9 clothing. And at that point, it's a case of: need to
10 facilitate that during the course of the post-incident
11 procedure. So that was that aspect.

12 Q. So he's asked you in his capacity as SIO --

13 A. Yeah.

14 Q. -- about the clothing, he would like to recover that
15 from his officers and he's telling you that to help you
16 facilitate --

17 A. Yes, sorry.

18 Q. -- the recovery of that clothing.

19 A. That's right. And then the other strand is around
20 statements. So ... so there's -- so the post-incident
21 process talks about the provision of accounts and
22 Detective Super and others refer to statements and
23 operational statements get spoken about as well. And at
24 this point, in terms of answering the question, at this
25 point --

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1 Q. That's fine.

2 A. -- the Detective Superintendent has said that there is
3 no need to take statements. I had my -- my PIM sort of
4 folder with me, which included the SOP, so was
5 cross-checking. I had, you know -- so there are initial
6 accounts. Again, we can come on to this in more detail,
7 I'm sure, but there are initial accounts and there are
8 detailed accounts within the PIM process. So I was --
9 I was referring to these at the same time that he was
10 talking about statements, but it was clear to me that he
11 didn't want any accounts to be provided to the officers
12 at that time. And that's obviously what I've noted
13 within the log.

14 Q. Was it clear to you that he was using a different
15 language --

16 A. Yes.

17 Q. -- if you like? He's talking about statements, you're
18 talking about the language used in the SOP for
19 post-incident procedure?

20 A. Yeah.

21 Q. Was that obvious to you?

22 A. It's probably more obvious in hindsight than it was at
23 the time. And, you know, I reflect and it probably goes
24 back to the point about the knowledge of post-incident
25 procedure more widely in the organisation, and I suppose

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1 assumptions that you have about people and their
2 knowledge of procedures and so on.

3 Q. What assumptions did you have about Pat Campbell?

4 A. So I probably made an assumption that ... that a SIO
5 would have had some sort of input around post-incident
6 management or post-incident procedure.

7 Q. When you say "input", what do you mean?

8 A. Well, obviously, to be a SIO, you have training, you
9 have development sessions and so on. And so whereas my
10 assumption was that he may have come across the term and
11 the process, and so on, during some of that training or
12 continuous professional development, but I didn't,
13 I didn't check with him.

14 Q. Looking back now, is that something you probably feel
15 you should have done, is to check whether he knew
16 anything about post-incident procedure?

17 A. Yeah, so I was using -- so the extent that I went to is
18 that I was using the language -- well, I had the SOP in
19 front of me, I was using the language of the SOP in my
20 conversation and he's -- you know, I've recorded the
21 language that he was using in his. So it's -- the broad
22 point about the organisation understanding post-incident
23 procedures more widely is absolutely a valid point and
24 one that I've reflected on, you know, since this
25 incident and one that the organisation has acted on,

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1 you know, very strongly in terms of the policy and the
2 understanding. Awareness is now, you know,
3 significantly different, sitting here today, to what it
4 was in 2015.

5 Q. We may hear from Pat Campbell that he hadn't had any
6 training in post-incident procedure.

7 A. Yeah. I now understand that may be the case.

8 Q. And looking back, was it part of your role to -- being
9 aware that there was maybe a limited knowledge of
10 post-incident procedure in 2015, do you think it was
11 part of your role to explain that to people, officers,
12 and share that information with them?

13 A. To a certain extent, yes. And we've already touched on,
14 when I got my PIM team together, I did that quick
15 briefing around PIM and so on. When I spoke to
16 Pat Campbell, I was referring to the SOP and about PIM.
17 So to that extent, yes, I think part of my role is to
18 talk about PIM and how that interacts with -- and a good
19 example is actually the clothing in terms of that
20 happened, so he wanted the clothing to be recovered,
21 I challenged him in relation to "the SOP talks about
22 this", and he said, "Well, the rationale is that ..."
23 Okay, that is fair enough.

24 So that conversation was playing out, so I think
25 I have got a responsibility to that extent, but I don't

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1 have a responsibility to train and educate everyone in
2 post-incident management.

3 Q. No.

4 A. Not during the course of a live incident. That's not
5 a realistic thing that I can achieve.

6 Q. Did Pat Campbell say to you, "Brief me on post-incident
7 procedure" or "I've not had training in this"?

8 A. No, he didn't.

9 Q. Had he asked that, would you have provided him with the
10 knowledge, shared with him your understanding of the
11 procedure?

12 A. Within the time constraints that we had, then I could
13 have given him some more than we did.

14 Q. Looking back now to the conversation you had about
15 statements, as he called them, and accounts, as you were
16 calling them, what impact do you think that lack of
17 training that he had, had on your role and the
18 relationship you had with him?

19 A. So there's two parts to the statement issue. There's
20 one which is the SIO's fairly clear comments to me about
21 not requiring statements, and his comments that the
22 officers and so on that I've recorded. There's that
23 aspect. But there is then, if you then refer to -- so
24 let's assume that he had asked for statements at that
25 point, if we then look at the SOP, the SOP obviously is

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1 about accounts, and we can talk about that, you know, at
2 some point, in terms of the provision of accounts, all
3 of those accounts are subject to medical and legal
4 advice.

5 So if the request had been different, the discussion
6 following that request would have been different
7 because, during the course of, you know, from -- we
8 touched on the legal bit -- during the course of sort of
9 12 o'clock to this time that I was speaking to him,
10 I became aware that the legal advice was not to provide
11 statements.

12 So you're now in a position where, even if the
13 investigative strand is saying, "You will provide,
14 you know, statements", even if they use the PIM language
15 of "you will provide an initial personal account", the
16 conversation that I then have to have as the PIM is:
17 personal initial accounts are subject to medical and
18 legal advice. At this point, we haven't got the medical
19 advice, but the legal advice is not to provide
20 statements.

21 Can you see that?

22 Q. Yes.

23 A. So there would have needed to have been another series
24 of discussions and conversations with the SIO had his
25 instruction been "you will all provide statements" and

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1 that may have triggered -- you have said about would you
2 have gone into more depth? That actually is -- it would
3 have been a trigger for more depth, because the
4 post-incident process is very clear that full
5 statements, detailed accounts, as they're called, so
6 stage 4, detailed accounts, is your equivalent of
7 an operational statement or a police witness statement
8 in a criminal justice process. That's a full account of
9 what's happened.

10 Post-incident process is very clear that that does
11 not happen on the day of the incident. That happens
12 a minimum of 48 hours, two rest periods, after the
13 incident.

14 So detailed accounts in line with the post-incident
15 process would never have been provided on the day of the
16 incident. That isn't the process. The process is
17 two days later as a minimum.

18 So you then go back to: well, what is provided on
19 the day? Well, stage 3 -- well, stage 2 and stage 3,
20 PIM basic facts, which we can talk about, or personal
21 initial accounts. Personal initial accounts and PIM
22 basic facts are subject to medical and legal advice. So
23 if the legal advice provided to the officers is not to
24 provide a statement of any sort, then that's the legal
25 advice. And that's what transpired in this

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1 circumstance.

2 Q. Let's look at the SOP --

3 A. Yeah.

4 Q. -- to get this clear. Look at PS10934. Now, we'll have

5 this on the screen.

6 A. Yeah.

7 Q. Move down the Bay page, please, so we can see the first

8 page, please. And then I think you should have a copy,

9 a hard copy --

10 A. Yeah.

11 Q. -- for your use.

12 A. Thank you.

13 Q. If we can see page 1 with the title:

14 "Post Incident Procedures

15 Standard Operating Procedures."

16 So this is the PIP SOP?

17 A. Yeah.

18 Q. And if we can have a look at this in some detail. Can

19 we look at the first sort of page, paragraph 1, move

20 down. Keep going, please. Right.

21 So this sets out the purpose which sets out guidance

22 for post-incident procedures. If we can look at

23 paragraph 1.3, 4 of the pdf. There we are. It says:

24 "The main principle that has governed the creation

25 of this document has been the desire to ensure that the

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1 policies, guidance and advice within are clear,
2 transparent and legally sound. The aim has been to
3 produce guidance balancing the welfare needs of the
4 officers with the needs of an enquiry that withstands
5 internal and external scrutiny and can be seen to help
6 ensure that any post-incident investigation is carried
7 out with integrity and transparency, thus ensuring the
8 creation and maintenance of trust from police, police
9 staff and the public ..."

10 That's really what you were describing earlier?

11 A. Yes, that's right.

12 Q. The balancing of welfare and the needs of the
13 investigation or, as it says here, needs of an enquiry.

14 Then can we look at paragraph 1.4:

15 "The criteria for a Post-incident investigation is
16 covered in the APP(AP) ..."

17 And as I understand, is that called the authorised
18 professional practice?

19 A. It is, and brackets, armed policing, so it's authorised
20 professional practice (armed policing).

21 Q. "... and is reproduced herein however Article 2 ECHR
22 places a positive duty on the police to carry out
23 a comprehensive investigation into all deaths, whatever
24 the cause."

25 It describes what the European Court of Human Rights

Transcript of the Sheku Bayoh Inquiry

1 would consider to be an effective investigation.

2 Then at the end of that paragraph, it says:

3 "From 1st April 2013 ..."

4 So that's the date that Police Scotland came into
5 existence.

6 A. That's right.

7 Q. And PIRC came into existence:

8 " ... [the] PIRC will, under direction from the
9 Crown Office ... conduct investigations into ..."

10 And if we can just look at those bullet points, it
11 details:

12 "-- allegations of a criminal nature ...
13 -- death or serious injury in police custody ...
14 -- death or serious injury following police contact;
15 -- police use of firearms and other weapons as
16 specified in regulations."

17 And I understand that the other weapons will include
18 less lethal weapons, which you mentioned earlier. And
19 then:

20 "-- complaints made ..."

21 And other relevant matters.

22 Do you see those points?

23 A. Yes, yes, yeah.

24 Q. And so that's when PIRC will become involved in
25 an incident, as they were involved in this case.

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1 Then can you look, please, at ... sorry. Would you
2 look at section 3, please, paragraph 3.1:

3 "The overriding aim of post-incident procedures will
4 be to develop a factual initial account of the incident
5 whilst considering the welfare of those involved."

6 So as part of your role as post-incident manager,
7 was the overriding aim to develop a factual initial
8 account?

9 A. My overriding aim is to balance the needs of the
10 investigation with the welfare of the officers. The
11 purpose of the investigation is to develop a factual
12 initial account. The way that those two things come
13 together is through the provision of accounts process in
14 the post-incident procedure.

15 So I manage that process and that in turn informs
16 the factual initial account. Of course, it's not -- the
17 provision of accounts by the officers is not the only
18 source of information to develop a factual initial
19 account. CCTV, civilian witness statements and so on.
20 And all of those lie in the investigation side.

21 Q. So the post-incident procedures themselves develop --

22 A. Yeah.

23 Q. -- through the use of those procedures, the information
24 about the initial account?

25 A. Yes.

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1 Q. And your role within that framework is as manager to
2 facilitate that, those procedures being adopted and --

3 A. Yes, that's right.

4 Q. -- completed?

5 A. That's right.

6 Q. Then it mentions 3.2:

7 "Any incident that involves the discharge of
8 a firearm by police has the potential to affect all
9 those involved."

10 And they talk about principal officers, and you've
11 mentioned that now it's key witnesses?

12 A. Yeah, so the language changed relatively recently, so
13 it's now known, they used to be called principal
14 officers, they're now called key police witnesses, KPWs,
15 key police witnesses.

16 Q. Could you look at paragraph 3.8, please. It says here:

17 "'Post-incident Investigations will be commenced in
18 all situations where there has been a discharge of
19 a weapon by the police (Including those involving
20 a conventional firearm or less lethal weapon) ..."

21 So it's post-incident investigations commenced, does
22 that include post-incident procedures?

23 A. So, not necessarily. So if we use the CS example, CS is
24 discharged fairly regularly by police officers, and
25 post-incident investigation, so you would submit

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1 paperwork and so on in relation to the discharge of CS.
2 So there is a process you go through in terms of that
3 post-incident investigation, but you don't initiate
4 a post-incident procedure.

5 So, if you like, the investigation side of that is
6 relatively straightforward and documentary, and the
7 welfare side would be looked after by the line
8 management, as we sort of touched on before, how
9 normal -- normal business, if you like. So discharge of
10 CS is a fairly regular occurrence and therefore there
11 are normal business processes that deal with the
12 post-incident investigation and the welfare side, so you
13 don't need post-incident procedures to initiate at that
14 point.

15 Q. So not every discharge of a CS or PAVA spray will result
16 in post-incident procedures?

17 A. Or indeed Taser.

18 Q. Or Taser, although they would be considered less lethal
19 weapons?

20 A. Yeah.

21 Q. So it is a possibility that it wouldn't be in every
22 single case?

23 A. No.

24 Q. In paragraph 3.8, it says:

25 "Post-incident Investigations will be commenced in

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1 all situations where there has been a discharge of
2 a weapon by the police (including ... less lethal
3 weapon), whether intentional or unintentional which has,
4 or may have:

- 5 1. Resulted in death or serious injury;
- 6 2. Revealed failings in command;
- 7 3. Caused danger to officers or the public."

8 I'm interested in this, because this seems to read
9 that where someone has died, whether intentionally or
10 unintentionally, and this situation has involved the use
11 of a less lethal weapon, such as CS or PAVA spray,
12 post-incident investigations will be commenced in all
13 situations. You've said already it wasn't a firearms
14 situation, so this wasn't the normal SOP that you used.
15 But from paragraph 3.8, on the face of it, it appears to
16 say if someone's died and, for example, CS spray has
17 been discharged, that there will be this post-incident
18 investigation.

19 I'm trying to understand why --

20 A. Yeah.

21 Q. -- many people have said, "Oh, it was an SOP that wasn't
22 applicable, it was only for firearms, it didn't apply,
23 but we adapted it."

24 A. Yes.

25 Q. But does this 3.8 not envisage that it can be used in

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1 situations where there has not been a discharge of
2 a traditional firearm?

3 A. So ... well, I don't -- I think -- so I understand when
4 you read that in isolation how that would be the
5 conclusion, and of course this is talking about
6 a post-incident investigation, not necessarily the full
7 post-incident procedures. But I think -- so where -- if
8 you -- the bits that you've referred -- so if you say
9 the death side, and use of force, so actually use of
10 force by the police regardless of whether it was a less
11 lethal weapon or some other reason that the person has
12 died, that's more of an article 2 investigation. So, in
13 a way that -- that would be initiated.

14 So I think I agree with the premise you're giving
15 that that absolutely would be a need for
16 an investigation. The point that you mentioned
17 about ... so, I mean, that's probably come from me.
18 I was adapting this SOP. This is a firearms SOP and it
19 refers to the armed -- the authorised professional
20 practice for armed policing and firearms throughout.
21 Firearms officers carry both conventional firearms and
22 less lethal weapons, which is where, in my view, you
23 have that all encompassing statement.

24 I mean, can it be adopted for -- for the
25 circumstances we faced? Well, yes, it can, because

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1 that's what we did. Does this document provide
2 a comprehensive policy support to that? No, it doesn't.
3 If we project ahead to now, we have an equal-sized
4 document to this for death and serious injury in
5 a non-firearms context.

6 So pointing to a couple of sentences in this to say
7 therefore this is applicable for every circumstance is,
8 in my opinion, is not right. This is a firearms
9 post-incident procedure document and, as
10 an organisation, we've now learnt that we need another
11 equally-sized document actually that refers to the
12 non-firearms context.

13 So I -- but post-incident -- post-incident
14 procedures has been on a journey since I've been
15 involved for over ten years with it, from what it was at
16 the very beginning, what it was in 2015, to what it is
17 now. And it is much more sophisticated now, it's much
18 more widely known, it's much more part of the fabric of
19 how we deal with incidents.

20 So the reality is, and where we were in 2015, as
21 an organisation, as Police Scotland, this was an SOP in
22 relation to firearms and post-incident procedures
23 following firearms. Can it be adopted for the
24 non-firearms context? It absolutely can, which is what
25 I tried to do. But I don't think it's fair to say that

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1 this is the policy that covers everything, because it's
2 not, because otherwise we wouldn't have written another
3 one, which we have.

4 Q. Okay. So 3.7 talks about post-incident procedures being
5 carried out in the following circumstances, and it does
6 talk about death occurring, intentional or
7 unintentional, where a less lethal weapon has been used,
8 which could include CS spray. So although, on the face
9 of it, that does seem to envisage a scenario that we're
10 describing here, but your understanding I think of
11 practice at the time was that this document was all to
12 do with conventional firearms and firearms officers and
13 procedures adopted when a conventional firearm has been
14 used, or you also mentioned Tasers?

15 A. Yeah. I suppose trying to sort of be helpful in -- so
16 firearms officers carry that full range of equipment, so
17 they will have conventional firearms, they will also
18 have Taser, they will also have a baton, so when you
19 deploy a firearms officer into a situation, then one or
20 all of those things may have happened.

21 Q. Would they also have sprays?

22 A. Sorry, yes, they will also have CS and now PAVA. So
23 they have every option available to them, and therefore
24 in the firearms context, this is an all encompassing
25 sort of definition. That's, you know, that -- and this

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1 is directly related back to that armed policing. The
2 core document is not the SOP actually, it's the armed
3 policing authorised professional practice and that is
4 about armed policing, and that's what all of this has
5 evolved from.

6 Q. And now you have a separate document, which is an SOP,
7 which specifically deals with non-firearms --

8 A. That's right.

9 Q. -- matters?

10 A. So it's known as DSI, death and serious injury, so
11 there's a DSI policy and a DSI document that deals with,
12 you know -- it would fit the circumstances we're in for
13 this incident far better than this document.

14 Notwithstanding that, it's very similar. So in terms of
15 the process it follows, the welfare -- the balance of
16 the investigation and the welfare, the accounts,
17 you know, so it's -- I'm not saying this is some
18 radically different document. It isn't. It's aligned
19 to this, but the language is more -- is more general as
20 opposed to specific -- specific armed policing.

21 Q. Are there parallels between this document and the new
22 document?

23 A. Yeah, absolutely, which is why I could adapt it.

24 Q. Right. And in terms of, say, an officer who's not
25 an armed officer, who has CS or PAVA spray, who's maybe

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1 used that and someone has subsequently died, that would
2 be dealt with under this new SOP rather than this one?

3 A. Yeah. And I understand the focus around sort of CS/PAVA
4 and the less lethal language in this, but that wider
5 document, if you think of something like a death in
6 custody, a death in police custody within a cell block,
7 that -- so there hasn't been a discharge of anything,
8 there hasn't been -- but that would still, with the DSI,
9 the new DSI policy and the post-incident investigation
10 and procedure could be in place.

11 So I guess what it's doing is it moves it away from
12 purely about the use of force to a broader policing
13 context, so therefore following police contact in a
14 custody arena, therefore following police contact in a
15 pursuit context of road policing. So these sorts of
16 examples. So it's not been a use of force that's
17 resulted in the death, it's been other police
18 interaction.

19 But that wider policy now acknowledges all of that
20 and allows a procedure similar to this to take place,
21 balance the needs of the investigation and the welfare
22 of the officers involved.

23 Q. So in a situation now where there's use of spray, use of
24 baton, and the restraint involved in use of force, would
25 it be the DSI, as you called it, the death and serious

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1 injury policy that would be used --

2 A. Yes.

3 Q. -- rather than this?

4 A. Yes. So you've got -- so the firearms policy is as it
5 should be for armed policing operations, and then the
6 DSI basically covers everything else.

7 Q. And then at paragraph 3.9 of this one, it says:

8 "Where the above criteria are not met, consideration
9 may still be given to applying these procedures at
10 a level proportionate with the incident and level of
11 investigation required."

12 So, at the time, there was only this SOP, did that
13 envisage the possibility of adapting it, which is what
14 you did?

15 A. So I think yes and no. Sorry. So I guess to the extent
16 is that -- and obviously this is a matter for
17 Garry McEwan, but that's probably why he said, "I think
18 we need post-incident procedures here", because of that
19 kind of trigger and feel of the incident that we were
20 dealing with. And that would be the right thing to do.

21 In terms of the specifics of that paragraph, my
22 sense is it's still more in relation to a firearms
23 context, because again, it goes back to the core
24 document for this is an armed policing document.
25 Although it -- you know, and a sentence there doesn't

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1 really cut it from a policy support position in terms
2 of: and also you can apply this to anything else that's
3 applicable. That's -- you know, when you think about
4 where we are today from a policy position, one sentence
5 doesn't really provide the same level of policy support
6 and thinking, in my opinion.

7 Q. Let's look at page 7 of the pdf. We're going to look at
8 stage 1, sorry. Page 7 of the pdf and we start in
9 stage 1 of the post-incident procedure.

10 If we can just go up a little bit, we should see
11 a section 4.1. Here we are. Stage 1:

12 "Situation Report."

13 4.1. Tell us, at the outset, what is stage 1? What
14 is situation report?

15 A. So one of the appendices to this document has all four
16 stages in, which might be helpful as well, but --

17 Q. Is that appendix N?

18 A. N, yeah.

19 Q. N for November. Let's go to that if that makes life
20 a little easier.

21 A. So there are four stages to the post-incident
22 procedures.

23 Q. If you can just give us a moment --

24 A. Sorry, sorry.

25 Q. -- so we can get that on the screen.

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1 (Pause)

2 A. Page 34, if that helps.

3 Q. Thank you. It's much easier on a hard copy than trying
4 to find it in my notes. Thank you.

5 A. So there are --

6 Q. If we can go to the top of that page, just ever so
7 slightly up, we should see it says:

8 "Providing Accounts -- Four Stages."

9 And it says:

10 "For sake of clarity the provision of accounts is
11 broken into four stages.

12 "Officers should be in a position to obtain
13 legal/medical advice prior to providing Stages 2 to 4
14 (inclusive) should they wish to."

15 So that starts the provision of legal or medical
16 advice from stage 2, prior to --

17 A. That's right.

18 Q. -- stage 2?

19 A. Yeah.

20 Q. And then:

21 "Where a Principal Officer is unfit to make a
22 personal initial account then it will not be appropriate
23 for Stage 3 to apply.

24 When an officer is suspected of a criminal or
25 misconduct offence then Stages 3 to 4 will not apply."

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1 Is that what you said earlier, that if you're
2 a suspect, you're diverted from post-incident procedure?

3 A. That's right, yeah.

4 Q. So let's look at stage 1, situation report. This
5 applies to everybody unless there are -- unless they've
6 been separated for some reason?

7 A. Yeah. So, so, so a situation report aligns very much to
8 the sort of business as usual approach as well. So
9 during any police incident, there are a number of
10 updates ongoing during the course of that incident. So
11 there will be the radio communication into the control
12 room, the control room has a command and control log
13 that those updates will be typed on. From a line
14 management point of view, if the sergeant isn't at the
15 scene of an incident, the sergeant will get in briefings
16 in terms of what happens. When you return to a station,
17 there's then the informal briefing about what has
18 occurred, so there will be that verbal briefing.

19 So a situation report isn't one sort of templated
20 document as such. It comes from a range of sources or
21 can come from a range of sources to provide that initial
22 picture of what has occurred.

23 Q. Who prepares the situation report?

24 A. So it's not a single document. It's the overall
25 situation that we know about at the beginning of

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1 an incident. So in terms of -- and I don't know the
2 answer in specific to this incident, but I imagine the
3 command and control log, for example, will probably give
4 a fairly comprehensive picture of what we -- you know,
5 the updates, the sit rep at that point in time. There
6 will have been briefings, so the fact I was being
7 briefed at 9.30 by the Chief Superintendent, that
8 individual must have been briefed through the line
9 management process in terms of the circumstances that
10 happened.

11 So command and control, probably verbal briefings,
12 which will have been documented in daybooks and so on by
13 line managers, that's the sit rep that the investigation
14 side -- so the purpose of this is so that we have
15 a starting point for what we're dealing with. What has
16 happened? What is the starting point? So for the
17 investigation then to establish what it needs to do, and
18 also it provides that context for the post-incident
19 process.

20 Q. So the situation report presumably evolves over time,
21 does it, or is it at a fixed moment in time?

22 A. So it can evolve over time, and if it would always be
23 known as a sit rep -- so a sit rep in sort of police
24 speak is that what's the immediate update of what's
25 happened? If we were, you know -- if 24 hours, we were

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1 producing -- we might produce the sit rep, you know,
2 every day for the next week in terms of a particular
3 situation. We might not refer to it as a sit rep, to be
4 honest, it might just be a briefing note about the
5 situation. But for all intents and purposes, it's the
6 same sort of thing. So yes, a long-winded answer to
7 your question that --

8 Q. An update.

9 A. -- you can update it as you go on.

10 Q. At any given time, you'll get an update --

11 A. Yes.

12 Q. -- on where you are at that moment?

13 A. Yeah, yeah.

14 Q. You mentioned briefings a moment ago. Would you expect
15 briefings that are given to be documented somewhere in,
16 I think you said daybooks?

17 A. Yeah, I would expect there to be some documentary
18 record. So police officers obviously have notebooks
19 that they can utilise, line managers also typically use
20 a daybook to record information. At a dynamic stage in
21 the incident, you would expect those briefings to be
22 verbal and you would probably just expect some notes to
23 have been taken about them, just by point of
24 recollection, and --

25 Q. So for you, with your PIM log, was page 2 that we looked

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1 at, at the beginning. That was your summary of --

2 A. That's -- yeah.

3 Q. -- the situation as it --

4 A. Yes, that's --

5 Q. -- was explained to you at that time?

6 A. Yeah. That's a good example where that briefing came to

7 me verbally over the teleconference and I've recorded it

8 in that sort of bullet pointy type fashion.

9 Q. What impact does that sit rep or that update have on

10 individual officers? I mean, does that direct the focus

11 and direct the direction of travel from that moment on?

12 A. Yeah, absolutely. Yeah.

13 Q. What if the information is wrong?

14 A. At early stages of incidents, that's often the case.

15 So -- so absolutely, there is -- there is -- people

16 report things to the police that is their perception of

17 what has just occurred and the police respond to that,

18 and a different set of circumstances materialises during

19 the course of the follow-on enquiries, the investigation

20 and so on. So the longer that timeline goes on, the

21 more accurate the information is likely to be. And it

22 probably -- you know, so what you know several days on

23 is different from what was initially reported, but

24 that's what you go on at the time.

25 So the sit rep is time dependent as you said and is

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1 based on the information you have at that time and that
2 information comes from a variety of sources, the
3 accuracy of those sources is untested.

4 Q. How was it corrected if incorrect information is shared
5 as part of an update and noted by someone? How is that
6 corrected for them?

7 A. So it probably depends exactly what source of the
8 information is, but in general terms actually the
9 detailed statement, so when you get to a full statement,
10 you are hoping that that is a true and accurate
11 recollection of the incident by either a civilian or
12 a police officer or wherever. So --

13 Q. And when you say "the full statement", is that the more
14 detailed --

15 A. Yeah.

16 Q. -- operational statement or witness statement?

17 A. Yeah, absolutely.

18 Q. Would that be stage 4?

19 A. In this -- in the post-incident process, yeah,
20 absolutely, yeah.

21 Q. So looking at the example of your PIM log, on page 2,
22 where you were updated, "Reports male machete in street,
23 police attend, male strikes one with machete", we've
24 heard evidence that that isn't how the events played
25 out, and that's incorrect.

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- 1 A. Yes.
- 2 Q. When you were given that update, and at a stage you
3 didn't ever receive full statements from officers, how
4 was that information corrected in terms of your
5 understanding of the sit rep?
- 6 A. So as the post-incident manager, I don't need to be
7 updated on the accuracy of information as it goes on.
8 That's not my role, that's an investigative role, and
9 a broader justice role to understand what happened.
10 I now know that to be inaccurate, but that doesn't
11 directly affect how you run through the post-incident
12 process. And in terms of that sort of ongoing update
13 around the sit rep, that isn't something that somebody
14 would come to me, whenever that information was
15 corrected, that isn't something that somebody would come
16 to me and say, "Oh, that information has been
17 corrected", because I'm -- you know, it's not directly
18 relevant to the role that I'm playing.
- 19 Q. So did that information have any impact on your
20 perception of events or the way you treated the officers
21 or the way you handled post-incident --
- 22 A. No.
- 23 Q. -- procedure?
- 24 A. I can understand why it seems quite alien in a way, but
25 the process is the -- the purpose of the process is to

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1 actually get to that correct state of events, and so you
2 need to run through the process to get there. So what
3 the starting point is, is to give you a starting point.
4 It doesn't -- it doesn't -- you know, it doesn't
5 directly affect how you carry out the pieces of the
6 process thereafter.

7 Q. Let's look at stage 2, that's still on the screen, PIM
8 basic facts:

9 "Where possible this should be from a source other
10 than a Principal Officer and should be limited to
11 confirming which officers are present at the scene,
12 a description (in brief) of their role and
13 a confirmation of who discharged their weapons. This
14 may be in verbal or written format and may be in the
15 presence of a staff association member.

16 The OFC is often the most appropriate person to
17 provide this account but flexibility is required
18 depending on the circumstances."

19 I would like to ask you about this PIM basic facts
20 and what it says here. A principal officer is the
21 equivalent of a witness?

22 A. Yeah.

23 Q. Key witness?

24 A. Yeah. So the officers that are involved in the PIM
25 process are principal officers. So everyone who was in

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1 the canteen on the day in question was a principal
2 officer.

3 Q. So in terms of you complying with the post-incident
4 procedures, what source other than a principal officer
5 did you have access to, to provide information about
6 basic facts?

7 A. So, I didn't have access to anyone else, I would have
8 had to have gone and found somebody else.

9 Q. And was that something you were inclined to do that day?

10 A. No. So I made a decision around PIM basic facts that it
11 wasn't required.

12 Q. Why was that?

13 A. So the level of information -- so from my training and
14 experience, the level of information that you would
15 typically write in PIM basic facts had already been
16 potentially exceeded in the information that was already
17 known to the enquiry. So if I can maybe provide some
18 context just to try and help illustrate that.

19 Q. Yes, please do.

20 A. So again, if you think of this in the firearms context,
21 firearms team may deploy into a building and from
22 a sit rep point of view, there's an update they have
23 gone into the building and the next update is that
24 somebody has been shot and killed, and there's nothing
25 in between because the nature of executing that

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1 operation there wouldn't necessarily be anything.

2 The PIM basic facts is to find out what happened to
3 fill that blank, essentially. What it isn't is
4 a detailed account of what happened. In the
5 circumstances we were faced with, if you look at what
6 I've noted in my -- in my sitrep section in my log, if
7 I'd actually put that in words as opposed to just
8 sort of bullet points, then that's a paragraph of what
9 happened and actually it fulfils the requirements of PIM
10 basic facts.

11 So, for me, when I arrived in Kirkcaldy and the
12 stage we were at, we were beyond PIM basic facts in
13 terms of the level of understanding of what had happened
14 by the enquiry, which is why I decided that there was no
15 requirement to document PIM basic facts and therefore
16 why I didn't go seeking somebody to assist doing that.

17 Q. So I'm interested in the distinction between the basic
18 facts that you have noted in the PIM log --

19 A. Yeah.

20 Q. -- and stage 2, as it's described here in the SOP. Here
21 it talks about confirming which officers were present at
22 the scene, a description in brief of their role, and
23 a confirmation of who discharged their weapons.

24 A. Yeah.

25 Q. I can see that you were in the canteen with the

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1 officers.

2 A. Yeah.

3 Q. They were present with you. But this idea of
4 a description in brief of their role: why did you
5 consider that you were beyond basic facts? Because
6 there doesn't seem to be anything in your PIM log that
7 indicates you knew what role everyone took that day.

8 A. No, and that's true. The description that had been
9 provided to me included the description that CS had been
10 discharged, it included the description that a baton had
11 been used, and they are the equivalents, if you like --
12 from the firearms context, they are the equivalents of
13 this aspect. And so it appeared to me that that
14 information was already part of the management
15 structure, the investigative side of, you know, of the
16 enquiry.

17 Q. So as far as you understood, did you require, in terms
18 of gaining PIM basic facts, to identify which officers
19 had carried out which role or was that not necessary?

20 A. No. So, in my opinion, that was not necessary. So
21 I was of the view that the level of information known
22 was more than would have been documented in PIM basic
23 facts. And the reason I come to that conclusion is
24 based on the training course that I did, which included
25 us, you know, doing a practice, PIM basic facts, and

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1 also the continuous professional development that I had
2 taken part in, which included us writing PIM basic facts
3 and the level of detail.

4 So what PIM basic facts, in my experience, wasn't,
5 was listing the people and explaining what they'd done.
6 That's a stage 3 account. So PIM basic facts is a more
7 generic "The firearms team attended at number 4, the
8 High Street, entered the address, carried out these
9 activities", and, you know, "And this was the result".

10 So it's not -- and we had that. That verbal
11 description, well, we had that. We knew that this
12 incident had occurred and been reported to the police,
13 so we had a number of people reporting this incident.
14 We knew that officers had attended. As I understood it,
15 the whole shift had attended and they were now present
16 in the PIM suite. A series of actions had taken place
17 there and sadly had resulted in the death of
18 Sheku Bayoh, and the investigation then starts at that
19 point.

20 So we actually knew a significant amount of
21 information, far more than is envisaged, you know, at
22 the -- from a firearms context.

23 Q. At stage 2?

24 A. At stage 2, yeah.

25 MS GRAHAME: All right, thank you very much.

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1 LORD BRACADALE: We'll stop for lunch there and start at
2 2 o'clock.

3 MS GRAHAME: Thank you.

4 (1.03 pm)

5 (The short adjournment)

6 (2.00 pm)

7 LORD BRACADALE: Ms Grahame.

8 MS GRAHAME: We were looking at the SOP and talking about
9 stage 2 basic facts.

10 A. Yes.

11 Q. If we could have that back on the screen, please, and
12 you'd just explained, if we could go to -- not that far
13 down. If we go to, say, 8.5, I'm going to move on to
14 that section next. Sorry, it was appendix N, I should
15 have said. Well, let's just stick with appendix N. If
16 we move back up to stage 2, please. Thank you.

17 You were explaining why you took the view that that
18 stage had been reached and surpassed. It then says
19 that:

20 "The OFC is often the most appropriate person to
21 provide this account but flexibility is required ..."

22 Is that the key witness themselves? Who is OFC?

23 A. So that's operational firearms commander. So again, it
24 very much relates to the firearms side of the SOP. The
25 equivalent for this incident would be the sergeant who

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1 was there. So the reason they're saying the OFC, from
2 a firearms point of view, is that that individual would
3 normally be just one pace back from the officers dealing
4 with the specific incident. So they're in a position to
5 provide sit reps actually back up the chain of command,
6 but also have probably a slightly broader view of what's
7 happened and they're maybe not directly involved in the
8 very, very front end of the involvement. So that's why
9 OFC's been identified there.

10 The same could be said of Scott Maxwell in this
11 circumstance in terms of, although the sergeant is
12 a principal witness, because they've been part of it,
13 and I don't know the detail of Scott's role, so I'm just
14 using that to illustrate this, it may be that he would
15 have been appropriate to have given PIM basic facts,
16 because he was maybe one, you know, step back keeping
17 an overview of the incident rather than being right
18 involved directly.

19 That's why that position here is pointed out and the
20 equivalent would be the sergeant attending an incident
21 in a non-firearms context.

22 Q. Did you consider speaking to Scott Maxwell about basic
23 facts or that type of information?

24 A. No, I didn't go into that detail in my consideration,
25 because of the -- what I've already explained, that my

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1 view was that we were beyond the basic facts side of
2 information, that the enquiry had more information than
3 would have been provided by basic facts to continue
4 their enquiry. And nobody, in terms of discussions
5 I had with the SIO, for example, there was no indication
6 that they were lacking information to progress
7 the enquiry.

8 Q. Can we move on to stage 3, please.

9 A. Yeah.

10 Q. "Provision of Personal Initial Accounts

11 Prior to the provision of an initial account
12 Principals should have had access to medical welfare
13 systems and legal advice.

14 The purpose of this initial account is to allow for
15 a period of re-orientation whilst obtaining a factual
16 account from Principal Officers, allowing them to
17 provide their individual recollection of events and to
18 record what their honestly held belief of the situation
19 was at the time force was used. The initial account
20 should not include detailed threat assessments or
21 detailed moment-by-moment descriptions of individual
22 involvement in the incident."

23 Then if we can go down slightly:

24 "The contents of the initial accounts should not be
25 confused with that of a formal written statement where

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1 a detailed account is provided. A formal written
2 statement will be made subsequently when all Principal
3 Officers have had time to fully consider what has
4 occurred."

5 I'm interested in trying to understand what this
6 type of account looks like and what it is.

7 A. I think, and if I may just, without going into too much
8 detail, but the whole rationale behind these accounts is
9 based on sort of psychology and human behavioural
10 experts where people have recalled incidents in greater
11 detail after a period of rest. So rather than trying to
12 obtain that detailed account at the time when people are
13 still under a state of stress or shock or trauma of
14 an incident, if you obtain that detailed account, then
15 you wouldn't have actually the clarity -- so I suppose
16 the view that you would get a better account on the day
17 than you would get two days' later is not borne out by
18 the research.

19 And that's one of the things that they describe in
20 the PIM training that, you know, there's academic
21 research that has inserted these two rest periods, this
22 48 hours, into the provision of accounts, so that
23 actually after 48 hours, you get a much fuller -- you
24 get better recollection by the individual and therefore
25 a fuller account of what happened from their perception.

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1 So that's kind of the background to the stage 4
2 accounts. However, particularly in the firearms
3 context, and understanding what role people played, and
4 again that terminology around "honestly held belief",
5 again this relates to the use of force by the police
6 potentially killing someone with firearms, what is their
7 honestly held belief at the time that force has been
8 used which has justified their actions? So it's to
9 capture that so that the investigation can have that
10 understanding at an early opportunity.

11 From my training and those bits of continuous
12 professional development we spoke about, a personal
13 initial account would typically be a page of A4,
14 you know, it's that kind of -- it's that kind of size of
15 document, you know, very much detailing, you know, who
16 they are, received a briefing about such and such,
17 attended at such and such, you know, was the second
18 person into the room, this is what was presented, this
19 is the action I took, my honestly held belief at the
20 time was that I had to protect myself and others from
21 an immediate threat and therefore discharged my weapon.
22 Full stop, end of story.

23 That's kind of, in terms of a sense of what the
24 personal initial account is, that's the kind of sort of
25 size and scale of it, from my training and experience

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- 1 that -- you know, up to that point.
- 2 So ... so, sorry, does that help answer the
- 3 question?
- 4 Q. So that can be compared with your PIM log where you'd
- 5 noted basic facts on page 2 in about three or
- 6 four lines. That was on -- it may have been page 3
- 7 actually.
- 8 A. Yeah. Yeah, just in the sit rep section.
- 9 Q. Page 2, it was. So the top is four or five lines and
- 10 that's the basic facts that you'd noted. However, the
- 11 initial account that's described as a stage 3 process
- 12 would be around about a page of A4?
- 13 A. Yeah. And it might be helpful, so it's almost -- so
- 14 it's a personal initial account, whereas this is a --
- 15 both a sit rep and a PIM basic facts are a collaborative
- 16 sort of view of what we knew at that point in time. The
- 17 individual, the personal initial account is a personal
- 18 view of their role at that time and their honestly held
- 19 belief about use of force.
- 20 Q. That's another distinction between stage 3 and earlier
- 21 stages?
- 22 A. Yeah, so this is the first personal, this is the first
- 23 time, you know, officer A sits down and writes, "This is
- 24 my personal account".
- 25 Q. And this is prepared by the individual?

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1 A. Yes, yeah.

2 Q. And shorter than perhaps an operational statement may
3 have been?

4 A. Much, much shorter. So an operational statement is more
5 equivalent to a detailed account.

6 Q. Which would be a stage 4?

7 A. Absolutely.

8 Q. And if an initial account is being sought, a personal
9 initial account, is that -- is the officer given the
10 opportunity to go into a quiet room and to prepare with
11 paper or a computer?

12 A. So, certainly -- I mean, "yes" is the short answer, so
13 it depends on the circumstances that you have in terms
14 of the -- from a practical point of view. So if we'd
15 got to that stage -- and I'm sure we'll discuss why we
16 didn't, but if we'd got to that stage, we would -- well,
17 make that decision. So, for example, we had nine
18 officers, did we have enough computers for all nine to
19 have a computer? Or actually, would we just say -- in
20 2015, we probably would have done handwritten, to be
21 honest. Nowadays, we would probably do computers, but
22 then we probably would have done a handwritten personal
23 initial account and we probably would have just spaced
24 them out appropriately, so they all had a desk, not
25 quite exam conditions, but that kind of imagery in terms

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1 of a desk and the provision of the necessary paperwork
2 to write a personal initial account. And certainly in
3 the training exercises I've taken part in previously, it
4 was a handwritten personal initial account that was
5 made.

6 Q. Just to be clear, that wasn't requested on the day in
7 the canteen, the PIM suite?

8 A. No, so it wasn't requested, but also of course at the
9 front sentence of stage 3 is "subject to legal advice".

10 Q. Can we have the full text of stage 3 back on the ... so:

11 "The officers should have had access to medical
12 welfare systems and legal advice."

13 A. Yeah. So, and that's -- obviously that's -- that's,
14 well, replicated a couple of times in this appendix. So
15 it is a key component of the post-incident process is
16 that officers are checked -- this is the welfare side
17 kicking in, that they're checked from a medical
18 perspective and they also have access to legal advice.

19 Q. You've talked before lunch about the officers having
20 access to a phone call, a conversation, going into
21 a side room, near the canteen, to have that conversation
22 with Amanda Givan present. So the officers, it would
23 appear, had at some point had access to legal advice --

24 A. That's right.

25 Q. -- on your understanding. And once that's been done,

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1 was there any attempt to seek these personal initial
2 accounts by you?

3 A. No.

4 Q. Why not?

5 A. Because, so Amanda had fed back to me that the legal
6 advice was for them to not provide statements. So my
7 interpretation of that, that comment, was that we
8 couldn't -- because of "these are subject to medical and
9 legal advice", the legal advice is not to provide
10 a statement, therefore we can't provide a personal
11 initial account.

12 Q. So once they've had access to legal advice, you would
13 not proactively seek those initial accounts, if you're
14 told the legal advice is "Don't give an account or
15 a statement", would that bring the whole process, the
16 whole procedure to a halt?

17 A. For this particular aspect to it, yeah, because
18 obviously other aspects that continued, but the
19 provision of this account, the process allows for them
20 to obtain legal advice. Their legal advice, as
21 I understood it, was not to provide a statement. I'm
22 not in a position to sort of overturn legal advice or
23 somehow obtain a statement despite that legal advice.
24 That's -- it's allowed for in the policy, it's what
25 I facilitated through the Federation rep and it is the

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1 advice that was given and therefore that particular
2 aspect is -- has to stop.

3 Q. So as soon as that happens, if that advice is given,
4 "Don't give a statement", that brings the whole
5 procedure in terms of stage 3 and then stage 4 to
6 a halt?

7 A. Well, it brings the procedure in terms of stage 3 to
8 a halt on the day. So obviously, there are, you know,
9 stage 4 wouldn't be on the day anyway. So, you know,
10 the legal advice could change as the circumstance -- it
11 goes back to that the sit rep is continually --
12 you know, the knowledge of what happened is continually
13 improving, therefore the legal advice may change. And
14 therefore, they may not provide a stage 3 account, but
15 they may provide a stage 4 account.

16 So, you know, it doesn't put the door down on the
17 whole process, it just puts the door down on that bit of
18 it for that period of time, which is the only bit that
19 would happen on the day anyway. The stage 4 accounts is
20 a number of days later.

21 Q. I'll come on to that in a moment. So from a PIM
22 perspective, you would not proactively seek initial
23 accounts once you know the legal advice is not to give
24 that account?

25 A. I don't think it's appropriate to.

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1 Q. And would that be -- what would you feel from a welfare
2 perspective of the officers? Why would you not seek
3 proactive accounts? Take -- proactively seek initial
4 accounts. Do you think that's a welfare issue?

5 A. No. So, I don't, unless there's, you can give me
6 a follow-up on that. But I suppose, so the officer
7 doesn't have to follow the legal advice they've been
8 given, so it's entirely up to the officer. And this has
9 happened in other circumstances, so the officer has been
10 given legal advice, they may still elect to provide
11 a personal initial account. That's a scenario that
12 could play out. It didn't play out in this incident,
13 but it could play out that way. So it is legal advice
14 and it's the individual's choice to follow that legal
15 advice. Or otherwise it's not my choice to ignore the
16 legal advice an individual's been provided with. That
17 wouldn't be appropriate.

18 Q. Knowing that the individual could elect to simply
19 co-operate and give an initial account, why would you
20 not then ask for that initial account, if there's no
21 welfare issue? Why would you not ask for initial
22 accounts anyway, even after they've been given legal
23 advice and even after it's -- they've said, "Don't give
24 accounts"?

25 A. I don't know why I would do that, because that -- so the

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1 process is not for me to -- so there's a dynamic here in
2 terms of being a rank-based organisation and I need to
3 be very careful that I'm there in a role as the
4 post-incident manager. My role is to balance the needs
5 of the investigation with the needs of the individual.
6 There shouldn't be any perceived pressure from
7 a Chief Inspector in the police asking an officer to
8 provide a statement when that officer's been given legal
9 advice not to provide a statement. I don't think that's
10 appropriate.

11 Q. We have heard some evidence that there can be a view
12 that more senior ranks can be seen to, depending on what
13 they say or how they act, influence less senior
14 officers. Is that the sort of thing you're talking
15 about?

16 A. What I'm saying is that's not appropriate. I don't
17 think it's my place -- so I'm the post-incident manager,
18 I'm there to facilitate the needs of the investigation
19 and balance that with the welfare of the officer. One
20 of the pieces of the welfare support to the officer is
21 the provision of legal advice. Those officers then
22 receiving that legal advice are entitled to follow it or
23 not. They have all chosen to follow that legal advice
24 and therefore for me to then discuss that with them by
25 way of trying to influence them, because of my rank in

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1 the organisation, I do not feel is an appropriate
2 approach to take. And I couldn't do it, and I didn't do
3 it.

4 LORD BRACADALE: Can I just clarify what information you
5 were given by Amanda Givan? Was it that they had been
6 given legal advice not to give statements, or was it
7 that they were refusing to give statements?

8 A. No, sir, it's that they had been given legal advice not
9 to provide statements.

10 LORD BRACADALE: How would you then know whether or not they
11 wished to give statements?

12 A. Erm ... (Pause) So with the interaction with -- so I'm
13 in the same room as the officers, sir, with just the
14 interaction with the officers, that they'd been given
15 that legal advice and they were all choosing to stick
16 with that legal advice.

17 LORD BRACADALE: Does that mean that they told you?

18 A. So what I didn't do is sit one-to-one with them and say,
19 "You've received your legal advice, are you prepared to
20 provide a statement or not?" I didn't do that. That
21 would have been one approach. My understanding from
22 both being in the room and the discussions with Amanda
23 were that the officers had elected to follow the legal
24 advice and not provide statements.

25 LORD BRACADALE: Thank you.

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1 MS GRAHAME: Was there open discussion amongst the officers
2 about whether to take that legal advice or not?

3 A. Not that I was privy to or recall happening, which from
4 my understanding is why they went out of the room, so
5 that it's not -- because obviously a matter of legal
6 advice to the officer is, you know, a legal relationship
7 between them and that person providing the advice. So
8 it's not appropriate to happen in that room. So there
9 wasn't -- so officers weren't leaving the room,
10 you know, receiving advice and then coming back and
11 discussing it with their colleagues. There wasn't that
12 discussion ongoing, no.

13 Q. You've talked about one possibility being you could have
14 sat down with them individually face-to-face and asked
15 if they wanted to give an initial account --

16 A. Yeah.

17 Q. -- regardless of legal advice.

18 A. Yeah.

19 Q. Or could you also have said openly to all the officers
20 in the PIM suite, "You will have received your legal
21 advice --

22 A. Yeah.

23 Q. -- and regardless of that, if anyone wants to give me
24 an initial account, could they put their hand up or let
25 me know"?

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1 A. I could have done that, but I didn't. I didn't do that.

2 Q. Would you see that as being some sort of undue influence
3 or pressure on the officers?

4 A. There's a potential it could be seen in that way.

5 Q. And is that the way you see it?

6 A. So, I didn't do it, I didn't give it as full
7 a consideration at the time in terms of if it was
8 an undue influence or not, as we're now discussing at
9 this point in time. So it's difficult for me to answer
10 further than that, because I didn't do it and I suppose
11 my broad reflections on it are that it could be seen as
12 an undue influence.

13 Q. If it was an automatic part of the process, you've
14 talked about the briefing you gave at 11.30 and
15 preparing officers by telling them what is part of the
16 process, if it was part of that process automatically,
17 and could be briefed initially, would that remove any
18 concerns about influence?

19 A. Yeah, so it might. I would just -- could I just go back
20 a stage in terms of the broader context here was that
21 there had been the conversation with the SIO,
22 notwithstanding the various levels of knowledge about
23 the PIM process, the SIO had been very clear to me about
24 the provision of a statement. When he'd sat in front of
25 the officers, he'd been very clear to the officers about

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1 the provision of a statement. The officers had then
2 received legal advice and it had been very clear to them
3 and through Amanda Givan to me about the provision of
4 a statement.

5 So there are -- there was three very clear points of
6 reference that were all saying not to provide a personal
7 initial account on that day of the incident.

8 So in that broader context, I didn't then think,
9 "Actually, I want to sit down with each of them and ask
10 them individually, despite everything they had just
11 heard and been told, I think I should still sit with
12 them and have that conversation." So it was probably
13 more of a subconscious decision that had led me to that
14 position rather than a conscious reflection of
15 everything that had happened.

16 But that, you know, those influences of the
17 conversation with the SIO, the SIO's discussion with the
18 officers, where I was present, and then the legal advice
19 position, for all three factors is what led me to the
20 conclusion I came to, which meant I didn't either sit
21 with them individually or as a group and still ask them
22 despite those three other factors.

23 Q. Thank you.

24 Can we move on to stage 4 -- well, maybe we should
25 complete the first part of stage 3, which is at the top

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1 of the page. This gives an explanation of the personal
2 initial account and how they are provided. That wasn't
3 done this day, but the appendix sets out the procedure
4 that would be followed if --

5 A. That's right.

6 Q. And then if we can carry on towards stage 4:

7 "Stage 4 - Principal Officers' Statements

8 Principal Officers detailed accounts or statements
9 should not be completed during the initial stages of the
10 PIP process. A period of reflection to allow thoughts
11 and memories to settle is recognised as beneficial after
12 a stressful and traumatic incident. This is commented
13 upon in the APP(AP) Module 7 as a period of at least
14 48 hours."

15 That's the period you were talking about earlier?

16 A. Yes, that's right.

17 Q. "Notwithstanding the foregoing, following the provision
18 of an initial account Principals may wish to provide
19 a detailed account or written statement and subject to
20 any legal or medical advice this should be permitted."

21 Again, just explain to us how this differs from
22 stage 3?

23 A. So the stage 4 account is probably much more akin to the
24 statements that people are more familiar with in terms
25 of a police witness statement for an evidential case,

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1 an operational statement for a police incident. It's
2 a full and detailed account of the involvement of that
3 individual in that incident. So everything from,
4 you know, coming on duty right through the briefing, the
5 incident itself, the aftermath and so on, you would
6 expect as much detail as the individual could recall
7 being provided in that statement.

8 Q. Like an operational statement?

9 A. Absolutely comparable.

10 Q. Can we just move down the page, please, just so I can
11 see what it says on the next page. There is then
12 comment about considerations of anonymity, you've talked
13 about that in the firearm context or terrorism context.
14 Then it says:

15 "Statements should be submitted to the enquiry team,
16 (except in exceptional circumstances) as soon as
17 reasonably practicable and in any case within 7 days of
18 the incident under investigation."

19 I'm interested in this timescale. So this is
20 48 hours after the incident stage 4 would be
21 implemented?

22 A. Yeah.

23 Q. Then it talks about a 7-day period. Can you tell us
24 about that?

25 A. I think they've just included that within the SOP as a,

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1 you know, in case there are other circumstances that
2 mean it might be longer than the 48 hours. So 48 hours,
3 I suppose, is a guide. So that's the guide to when --
4 two rest periods is actually how people talk about it.
5 So two periods of rest is sort of the defined period
6 where things have settled down and the officer should
7 then be able to recall, you know, the full
8 circumstances.

9 I think the seven days is just there because, from
10 a practical point of view, sometimes other things occur
11 and it might not be 48 hours after, it might be,
12 you know, three days or four days or whatever, and
13 they've just put a guide. I don't have any more
14 information as to that sort of timeline in the SOP as to
15 just that sort of practical point.

16 Q. You mentioned earlier that the training you'd received
17 had commended the benefit of the two rest periods --

18 A. Yeah, yeah.

19 Q. -- to allow people's recollections to achieve --

20 A. Yeah.

21 Q. -- the best they could. Is there -- was there equally
22 guidance given to you on training about why there's
23 a recommendation of it being done within seven days?

24 A. No, I'm afraid there's not.

25 Q. Was there anything said about why "as soon as reasonably

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1 practicable" was indicated in the SOP?

2 A. Erm --

3 Q. The benefits of doing it as soon as reasonably

4 practicable?

5 A. After the 48 hours?

6 Q. Yes.

7 A. Yeah, I think that's again from a practical point of

8 view, that from an investigation point of view,

9 investigations have a thirst for information, so they

10 want as much information as soon as they can secure and

11 obtain that information. And therefore the "soon as

12 reasonably practicable" is going to aid the

13 investigation to get that information as soon as they

14 can notwithstanding the two periods of rest.

15 Q. Is that what you were talking about earlier about

16 balancing the welfare of the officers, but also bearing

17 in mind the needs of the investigation?

18 A. Yes, absolutely. And it's of benefit to the

19 investigation to allow the two rest periods to happen,

20 because they should then get a fuller account, a more

21 accurate recollection of what's happened and therefore

22 it should be a better quality product that they're

23 getting after two days rather than what they may have

24 after -- you know, on the day or the day after or

25 whatever.

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1 Q. Then if we can move up just to complete this, there's
2 then a number of other matters raised about disclosure
3 and legal privilege and matters of that sort.

4 Can I ask you -- well, we've looked at appendix N.
5 As I have read your statement, this was a procedure, PIP
6 was never used before in Scotland for this type of
7 scenario, was it?

8 A. As far as I understand, that's right, yeah.

9 Q. As far as you're aware?

10 A. Yeah. Sorry, I should probably just absolutely clarify
11 that. So from Police Scotland, I think this was the
12 first time that it had been used in a non-firearms
13 context, by -- I referred earlier to in Tayside police,
14 we had used it in a non-firearms context in relation to
15 public order officers and Taser discharge, so --

16 Q. It had been used in relation to firearms matters --

17 A. It had been used --

18 Q. -- or firearms officers?

19 A. It had been used in relation to firearms but not in
20 relation to the circumstance.

21 Q. This was the first time it had ever been adopted in
22 a more flexible way?

23 A. Yes.

24 Q. Now, thinking about the training you'd had since 2009,
25 and the experience you'd had of acting as PIM in the

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1 Taser situation in Tayside, and also the scenario
2 training that you had gone through, did you feel
3 equipped to take on the role of PIM in this particular
4 matter?

5 A. Yes, I did.

6 Q. And you felt that the experience you had was suitable to
7 deal with the circumstances?

8 A. Suitable and relevant, because I'd had some experience
9 in a non-firearms context.

10 Q. Can I ask you to look at section 6.1 of the SOP, and
11 this relates to -- it's right back at the beginning,
12 sorry. This relates to a connection with PIRC. So it
13 says:

14 "... (PIMs) facilitate, manage and ensure the
15 integrity of the post-incident procedure. They will
16 facilitate the PIRC investigation whilst considering the
17 welfare of the Principal Officers and others involved."

18 Does this essentially mean that your role remained
19 the same whether it was Police Scotland officers who
20 were leading the investigation or PIRC?

21 A. Yes.

22 Q. And I think you said earlier before lunch, you didn't
23 have any contact with PIRC that day; is that correct?

24 A. That's correct, yes.

25 Q. So was that the whole of 3 May you didn't have any

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1 contact with them?

2 A. Correct.

3 Q. Would you have expected to have direct contact with PIRC
4 that day, or would you have expected any contact to be
5 through the SIO?

6 A. So, can I answer that in two ways, please? So, at the
7 time, I remember being content that the SIO was being
8 that link between the investigation and me as the PIM,
9 and I was aware that PIRC -- I was aware that
10 Police Scotland detectives were still carrying out some
11 enquiries and PIRC officers were carrying out some
12 enquiries. So it very much sounded like a joint
13 investigation.

14 And, I mean, I didn't go into the detail about is
15 there a PIRC equivalent to the SIO or anything like
16 that. I was content that the SIO was speaking on behalf
17 of the investigation in its broadest sense, ie
18 Police Scotland and PIRC. So that was my thoughts at
19 the time.

20 What might be helpful is just, again, in terms of
21 learning, so now and for a number of years, PIRC have
22 been absolutely integral to the post-incident process
23 and I would expect a PIRC investigator to meet with me
24 as the PIM. Not only that, but the PIRC investigator
25 sits in the PIM suite, where the SIO spoke to the

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1 officers. Nowadays, the PIRC investigator would speak
2 to the officers and would be there, again that
3 independent -- independence of the PIM suite would be
4 there to, you know, to further enhance the -- that
5 presence in the PIM suite.

6 So in 2022/2023, the interaction with PIRC and how
7 they operate within the post-incident procedure is --
8 you know, is integral and collaborative. In 2015,
9 probably just because it was the early days of
10 Police Scotland, early days of PIRC, that that
11 relationship, that working collaboration hadn't been
12 trained, tested, put into practice, and therefore it
13 didn't happen.

14 So I can look at it from sort of back then, but
15 I can look at it from where we are now as well, and it
16 is a world of difference in terms of that interaction.

17 Q. And when you say that PIRC would speak to the officers
18 now in a similar situation, would the SIO actually have
19 any involvement with the officers in the PIM suite?

20 A. So, not necessarily. So some of this is about
21 capability and capacity and speed of response by PIRC as
22 an organisation. So they now are -- so you might still
23 have an IIO or an SIO carrying out some immediate
24 actions around the scene management, initial witnesses
25 and so on. But actually, PIRC can respond really

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1 quickly to a police incident and often, you know,
2 they're in place at an earlier stage.

3 So the interaction is almost -- almost immediately
4 with the PIRC investigators, because they're there, and
5 they've physically, you know, been appointed and in
6 position to do that. Whereas, in 2015, they obviously
7 weren't in the position to be able to do that as quickly
8 as they can now.

9 Q. Looking back to 2015 now, what were your views about the
10 speed at which PIRC were becoming involved in the
11 investigation?

12 A. So I -- so I reflected on the whole post-incident
13 procedure and the Inquiry will be aware that I wrote
14 a document around my reflections a short time
15 afterwards, and one of -- well, that touched on both --
16 it touched on the knowledge of post-incident procedure
17 and referenced that knowledge across all investigators,
18 both Police Scotland and PIRC investigators. And --

19 Q. We will come to that.

20 A. Right, sorry.

21 Q. I'll finish asking you about the day itself --

22 A. Yes.

23 Q. -- and then we will come on to the lessons learned.

24 You mentioned a moment ago that now there's training
25 involved with PIRC and post-incident procedures. Can

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1 you give us, just very briefly, your views on that?

2 A. So I continued as a post-incident manager for a number
3 of years after this incident in 2015, continued until
4 about 2020 as a post-incident manager, so I continued to
5 do my continuous professional development. In fact,
6 I went through a re-accreditation course, and as part of
7 both the continuous professional development days and
8 indeed the re-accreditation course, you know, PIRC will
9 come and give an input to the students on the course and
10 describe the role of PIRC and describe how now PIRC will
11 interact with a post-incident manager during the course
12 of the proceedings.

13 And I've had experience of other both live
14 operational PIM deployments and in other roles working
15 with PIRC and, as I say, it's a collaborative -- it's
16 a collaborative process now.

17 Q. Thank you. We'll probably hear more evidence about this
18 in the future --

19 A. I understand that, yeah, yeah.

20 Q. Can I go back to your PIM log, please. We had started
21 looking at 13.41. We talked about 13.40 and 13.41.

22 This was your interaction with Pat Campbell.

23 A. Yes.

24 Q. So 13.40 is at page 13, at the bottom of page 13.

25 A. Yes.

Transcript of the Sheku Bayoh Inquiry

1 Q. And we'll just wait until it's on the screen. Further
2 up. That's it. You've already given evidence about
3 this initial discussion that you had with Pat Campbell
4 prior to him going into the PIM suite to talk to the
5 officers, and you'd noted there in the last line:

6 "No need to take statements [and I think on the next
7 page, page 14, it says] at this time."

8 I think you said before lunch that that was filled
9 in by you when you were in the canteen with the
10 officers.

11 A. That's right.

12 Q. Let's look at the notes you took at 13.41, please.

13 I think you said earlier, before lunch, that you had
14 written those in a contemporaneous to Pat Campbell
15 sitting at the table in the canteen; is that correct?

16 A. That's right.

17 Q. Tell us what you've noted down there, please, if you
18 could read that out.

19 A. So:

20 "[Detective Superintendent] Pat Campbell speaks to
21 officers.

22 Provides initial circumstances of enquiry to date.

23 No suspicion on part of any officer.

24 No injuries (visual) on deceased examined at
25 hospital.

Transcript of the Sheku Bayoh Inquiry

1 5 loci of deceased movements during night.

2 Clothing in bags.

3 No operational statements at this time."

4 Then I've recorded, "DCI Stuart Houston".

5 Q. Let's go through that, if we can. So Pat Campbell
6 speaks to the officers. You've described him being in
7 the PIM suite:

8 "Provides initial circumstances of enquiry to date."

9 Do you remember what was said?

10 A. Not, not in any detail, I'm afraid. So I think he
11 summarised pretty much as per the -- my sitrep comments
12 in the log, and then I remember him talking about
13 a number of civilian witnesses to be traced and CCTV
14 enquiries to be done. It was sort of an enquiry update
15 in the sense of we've got these two big bits of work to
16 do. It was -- it was that sort of level of detail.

17 Q. Was there any interaction with the officers themselves,
18 were there any questions or points made?

19 A. I don't really recall the officers asking -- asking any
20 particular questions or raising any particular points.
21 It was more a bit like my meet and greet, was more
22 a sort of a front-loading briefing. It was the same
23 with Detective Super, it was a briefing to the officers.

24 Q. You've then noted:

25 "No suspicion on part of any officer."

Transcript of the Sheku Bayoh Inquiry

1 Tell us what Detective Superintendent Campbell said?

2 A. So my recollection is he said there is no suspicion on
3 the part of any officer, referring to the officers that
4 were in front of him.

5 Q. Did he give any explanation or reasoning behind that?

6 A. He didn't at this time, no.

7 Q. Then you've said:

8 "No injuries (visual) on deceased examined at
9 hospital."

10 What was said there by Mr Campbell?

11 A. So again, my recollection is, as I've noted it, that
12 there has been a visual examination of the deceased at
13 the hospital and no -- no injuries have been noted on
14 him.

15 Q. Any more information given by Pat Campbell about that?

16 A. No.

17 Q. Any questions asked?

18 Then you say:

19 "5 loci of deceased movements during night."

20 What was that in connection with?

21 A. So I think there was an understanding that the --
22 you know, that he'd been to different places,
23 Sheku Bayoh had been to different places prior to the
24 incident with the police and five loci is how we would
25 describe, once we've secured a crime scene, you've got

Transcript of the Sheku Bayoh Inquiry

1 a locus of a crime scene and he's identifying that there
2 are five of those that have been identified.

3 Q. Did he identify where they were?

4 A. He didn't go into that detail.

5 Q. Then it says:

6 "Clothing in bags."

7 What does that mean?

8 A. Erm ... (Pause). I struggle to recall any more detail
9 about that. I mean, I ... in terms of him speaking to
10 the officers, I am -- there's a bit of an assumption
11 here, that he's talking about the officers' clothing
12 being in bags, but I have no clearer recollection other
13 than the note that I've put there.

14 Q. Right. Then:

15 "No operational statements at this time" is written
16 down.

17 What did Detective Superintendent Campbell actually
18 say?

19 A. So again, my only recollection is around the notes I'd
20 taken that there was no need for operational statements
21 from any officer at this time.

22 Q. Again, was -- we've talked about the language being
23 used. Was he saying operational statements?

24 A. Yes. Yeah.

25 Q. Can I ask you, we've not heard from Pat Campbell yet.

Transcript of the Sheku Bayoh Inquiry

1 A. Right.

2 Q. We've not heard his evidence yet. He has given
3 an Inquiry statement to us, which I've had
4 an opportunity to read. Can I ask you, because we may
5 hear from him that he was SIO, there was a gap in his
6 knowledge in that he was not aware of exactly what had
7 occurred with the key police witnesses when they came
8 into contact with Mr Bayoh in Hayfield Road. And in the
9 absence of eyewitness testimony, at this stage, what
10 were the actions, the use of force of the individual
11 officers involved, when they were restraining and
12 arresting Mr Bayoh? And that was a gap that he had
13 identified and believed it was operationally critical to
14 the investigation, and that was why he was keen to seek
15 the submission of their personal initial account and/or
16 operational statements.

17 And he explained in the briefing that there was
18 requirement for operational statements or personal
19 initial accounts, which was effectively stage 3 of PIP,
20 and he told you, Conrad Trickett, the requirement and
21 the need for them to account for their actions and in
22 particular their use of force. He said that that sat
23 with you, although it was important for him in his
24 investigation, and with PIP activated, it was the remit
25 of the PIM to obtain this and not his remit.

Transcript of the Sheku Bayoh Inquiry

1 So, as I say, we've not heard from him yet, but it
2 would appear from those paragraphs that he's identified
3 that there was a gap in his knowledge as part of the
4 investigation, and he did explain at the briefing that
5 he was looking for operational statements or personal
6 initial accounts.

7 I just wondered if you could comment on that at all?

8 A. So I'm aware of the paragraphs you're referring to and
9 I was surprised to read them. It conflicts directly
10 with my recollection and it conflicts directly with the
11 contemporaneous notes that I've made at the time.
12 A personal initial account and an operational statement
13 is not the same thing, as we've already discussed. So
14 to say either/or is not comparing like with like, so
15 I don't think that recollection is accurate.

16 Q. Correct me if I'm wrong, but a personal initial account
17 would be a stage 3?

18 A. Correct.

19 Q. And the more detailed accounts that we've discussed
20 would be the stage 4?

21 A. Correct.

22 Q. And operational statements would be akin to a stage 4
23 statement?

24 A. Correct.

25 Q. Which I think you've already said you would not expect

Transcript of the Sheku Bayoh Inquiry

1 stage 4 statements to be made available or sought on the
2 day itself?

3 A. That's correct.

4 Q. Can you explain or give any -- do you have any reason to
5 understand why there seems to be a difference between
6 you and Pat Campbell on this point? Can you think of
7 any circumstances where there may be some confusion or
8 miscommunication has occurred?

9 A. It was very clear to me what he was asking for at the
10 time, and that's what I've recorded in my log. And it
11 was very clear to me what he said to the officers at the
12 time, and that's what I've recorded in my log. And
13 I can't explain the statement that he's provided.

14 Q. As well as what you have recorded in your log, in terms
15 of your own personal recollection now today, is your
16 recollection matching your own log?

17 A. Yes.

18 Q. How confident are you that your notes in your log are
19 accurate?

20 A. Very.

21 Q. Could I ask you about the circumstances at that time
22 when Pat Campbell was in the canteen or the PIM suite,
23 were you aware of whether he was under any pressure to
24 effectively cut short that conversation with the
25 officers for any external reason?

Transcript of the Sheku Bayoh Inquiry

1 A. Erm ... so I think the SIO in that environment is in
2 a very pressured position. So I absolutely recognise
3 that, I mean, the investigation is significant, the
4 interaction with PIRC is significant. As we've already
5 discussed, it's the first time probably that that had
6 evolved on the scale that it had. So as an individual,
7 an individual role, that's an extremely pressured
8 situation to be in.

9 At the time, it was clear he was a busy individual,
10 which is probably why we had the conversation in the
11 corridor rather than, for example, go into an office and
12 have it in the office. And, you know, having spoken to
13 him, he was then off doing something else. And
14 actually, I didn't then see him later, and I engaged
15 with the DCI in relation to the clothing. So he's
16 clearly a man both under pressure and very busy.

17 I'm now aware that there were -- well, PIRC arriving
18 at a very similar time to the discussion with the
19 officers, there were Gold Groups going on, all of which
20 he's intimately involved in. So, you know, that role is
21 an extremely pressured and challenging role where that
22 individual is being stretched and pulled in many, many
23 directions.

24 So I can understand why this was only one component
25 part of a huge investigation for him to manage, and

Transcript of the Sheku Bayoh Inquiry

1 therefore I understand the pressures and the challenges
2 he was facing, and the timescale and the challenge
3 around timings and time evaporates when you're in these,
4 you know, high pressure situations and environments. So
5 I recognise and understand all of that.

6 Q. We've also heard evidence and we may hear more evidence
7 that there were Gold Group meetings going on during that
8 day --

9 A. Yeah.

10 Q. -- and that Pat Campbell did attend those Gold Group
11 meetings.

12 A. That's right.

13 Q. And we may also have heard that in the early afternoon
14 that PIRC were actually going to arrive at Kirkcaldy
15 Police Office.

16 A. That's right.

17 Q. Thank you.

18 Can we look at 1400. Sorry, I should perhaps say
19 DCI Stuart Houston, was he the crime scene co-ordinator?

20 A. He was, yes.

21 Q. And Houston was the man that you dealt with the clothing
22 with --

23 A. That's right.

24 Q. Let's move on to 1400, page 14 of your log. Could you
25 read out what you've said there, please?

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1 A. Yeah. So:

2 "Discussion with DCI re: [obviously reference to]
3 taking clothing. DO's [so that's detective officers] in
4 white suits. Cover table. Brown bag. Lay out
5 clothing, take record of it. Labels. Name.

6 Need all [they're] wearing -- outer clothing."

7 Q. Could you explain what that entry means?

8 A. Yeah. So what I've recorded is, I've paraphrased,
9 bullet pointed, the description of how the DCI wanted
10 the clothing to be recovered.

11 Q. Is that Houston?

12 A. Yeah, sorry. Yes. His name's been given to me by
13 Pat Campbell, which is why I've recorded it above there
14 just as the -- you know, just as a point of reference
15 for me to remember his name. I've then met with him at
16 1400, and he's just explained how the investigation
17 wanted to forensically recover the clothing. And so --
18 and explained what that meant in terms of equipment and
19 outer clothing, which included boots.

20 And then this is the process that he wanted to
21 follow, and detectives would wear white suits, so,
22 you know, the classic image of the forensic suits. So
23 they would be wearing -- so that's to avoid any
24 cross-contamination with their own clothing. So wearing
25 white suits.

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1 So they were going to cover the table, so it was
2 going to take place, not in the PIM suite, just for
3 clarity, in the canteen. They had a separate office
4 with a table in it and they were going to lay out,
5 actually put white covering over the table.

6 And then brown bags is the production bags that,
7 you know, police use. So a brown bag with a see-through
8 strip in it, so you can see the item. So it is
9 described here.

10 So the intention was for the officer -- and this is
11 about the officers are witnesses, so this is about the
12 dignity of the process for the officers whilst still
13 achieving the investigative aim of forensic capture. So
14 this is about them laying out their equipment and
15 clothing, and then the detectives would take that
16 clothing, put it in a brown bag and take a record of it,
17 obviously in a production manifest and obviously a label
18 as well, where we'd always label our productions. And
19 name, I'm assuming refers to the name of the officer
20 would obviously be associated with each item of
21 clothing.

22 And then that bit about all clothing, that's the bit
23 they wanted all their outer clothing, so everything that
24 was outward facing on the day in question right down to
25 including their boots.

Transcript of the Sheku Bayoh Inquiry

1 Q. Can I ask you, what involvement, if any, did you have in
2 recovering the vest from Nicole Short? When I say
3 "vest", I mean her body armour with her high-visibility
4 vest?

5 A. So I remember being shown her vest --

6 Q. Who by?

7 A. Possibly by the officer herself.

8 Q. Nicole Short?

9 A. Yes. Although that's -- I can't imagine anyone else
10 would have shown me that vest, so I think it was her --
11 remember we spoke earlier about the equipment being
12 placed down? So I recall that she showed me the vest
13 and then placed it down, and, you know, the conversation
14 would have been "All right, just leave it there until we
15 know what's happening". So that would have been before
16 I understood what the recovery of the clothing was going
17 to be.

18 Q. When did she show you her vest?

19 A. So there's a period of time after the meet and greet,
20 before some of these processes are kicking in, that --
21 and you'll see I've recorded things like T-shirts being
22 handed in and taken off. I think it must have been in
23 that timeframe. What I haven't done is I haven't
24 recorded that in my log, so I can't be more specific
25 than that.

Transcript of the Sheku Bayoh Inquiry

- 1 Q. If we go back to page 13, we see at roughly 12.15, you
2 have entries saying, "Change T-shirt and change clothing
3 to civilian clothing", that type of thing.
- 4 A. Yes, yes.
- 5 Q. And you've mentioned PC Tomlinson and you've mentioned
6 PC Paton.
- 7 A. Yes.
- 8 Q. So when you say that Nicole Short showed you her vest,
9 what did she actually do? Was it round about this time?
- 10 A. So my recollection is it was, but I recognise the fact
11 that I've not recorded it, so it's not as accurate as my
12 records show here. But -- so after the meet and greet,
13 you know, officers are then coming forward with their
14 personal circumstance, in terms of the things I have
15 recorded, there are good examples like, "Can I change my
16 T-shirt because there's contamination on it?" "Yes, you
17 can, put it in a bag." And I've recorded that. So
18 I have a recollection of being shown the body armour and
19 saying, "Right, just place that there". And, you know,
20 at that point, I didn't know what the recovery of
21 clothing was going to be, but I made an assumption there
22 would be something coming from the investigation side.
23 So it's that level of interaction.
- 24 Q. Why did Nicole Short show you her body armour?
- 25 A. I don't know.

Transcript of the Sheku Bayoh Inquiry

- 1 Q. What did she say to you about it?
- 2 A. Erm ... so I think she made some reference to having
3 been assaulted, and I think she was showing it to me to
4 demonstrate why she'd been assaulted. But I don't have
5 a strong recollection of that, I'm afraid, and I didn't
6 write it down. So I'm aware of evidence that the
7 Inquiry has now that I'm here, so I don't want to infuse
8 my recollection at the time with what I now know. So my
9 recollection is, I don't have a strong recollection of
10 that interaction.
- 11 Q. What did you say to Nicole Short to do with the vest?
- 12 A. Just to place it down and we would come to clothing
13 during the course of the process.
- 14 Q. So we can see that with the change of T-shirt for
15 PC Tomlinson, you've noted the contamination with spray,
16 put it in the bag, you've spoken to Paton about it, and
17 with changing his clothing, you've talked about his
18 locker. Was there any suggestion by you to put the body
19 armour in a bag or anything along those lines?
- 20 A. No. So we spoke earlier about the sort of de-kitting
21 and what I was faced with when I arrived and there were
22 some pieces of equipment and then a lot -- people had
23 already de-kitted and it was in lockers. But my
24 preference was for that to be left where it was until we
25 understood from the investigation team what they wanted

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1 us to -- what they wanted and what they wanted us to do
2 with that. Bearing in mind the policy is not to recover
3 all the clothing. So at this point in time, I didn't
4 know what the recovery, the forensic strategy in
5 relation to the clothing would be.

6 So in the same way that there were other items, that
7 we had some bags with us, the production bags are
8 generally not the size of body armour.

9 Q. Right.

10 A. So we had some production bags I recall in the canteen
11 and it was simply a case of: what's the most practical
12 thing to do in this circumstance whilst we await
13 instruction from the investigation team? So there's
14 a number of -- I guess there's two examples in the log
15 and there's the third example with the body armour where
16 I've either said, "Look, put that in the bag and we'll
17 leave it there until we find -- get that instruction",
18 and in PC Paton's perspective, he was going to change
19 into civilian clothing, so it was, "Right, leave your
20 uniform in your locker." And in the case of
21 Nicole Short with her body armour, it was a case of
22 "Right, position that down there", as there were other
23 positions.

24 So I've taken a number of options in terms of just,
25 you know, let's just secure it in the sense of put it

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1 part in terms of I think I put "DC N Shaw", but it's
2 "Short", it should have been "Short". So --

3 Q. Is this on page 13?

4 A. No, sorry, it's actually right at the beginning. So
5 page 2, which is where the sit rep page is, at the
6 bottom there, you'll see I've just put a little asterisk
7 there.

8 Q. Yes.

9 A. So there's a section above it that talks about:

10 "Principal Officers removed from scene to PIM
11 location? ... basic needs ..."

12 And then there's a box there saying, "Any injuries?"

13 And so I've just put a little asterisk in that box.

14 And then, at the bottom, I've written:

15 "PC N Shaw attended hospital and returned to PIM
16 suite."

17 So that's my typo in saying "Shaw", that's
18 Nicole Short I'm referring to there.

19 So I was aware that she'd been -- a part of the
20 confrontation had resulted in her needing to go to
21 hospital to be checked and then she'd elected to come
22 back to the canteen, to the PIM suite. So I was aware
23 that that had happened. And I am -- and this is
24 an assumption, but I'm assuming that that's why we had
25 that interaction about the body armour.

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- 1 Q. When you say "an assumption", do you have any
2 recollection now at all about that interaction with
3 Nicole Short?
- 4 A. Not in any detail, I'm afraid, I'm sorry.
- 5 Q. So I was just checking in the break and you were
6 obviously asked in your Inquiry statement about recovery
7 of the clothing and the equipment --
- 8 A. Yes, yes.
- 9 Q. -- of the officers, you were asked about interactions
10 generally with the officers, and I couldn't see anything
11 in your Inquiry statement about this.
- 12 A. No.
- 13 Q. And obviously there's nothing in your log where you've
14 noted -- you've noted other things but not that. And
15 I was also checking to see if there was anything in your
16 PIRC statements.
- 17 A. Yeah.
- 18 Q. I couldn't find anything.
- 19 A. No.
- 20 Q. I'm interested in why today, having given all those
21 statements in the past, you've had a recollection about
22 this situation with Nicole Short. Has something
23 prompted you to think about that, that you've not had
24 before?
- 25 A. Sorry, I might be mistaken, did you not ask me

Transcript of the Sheku Bayoh Inquiry

- 1 a question about Nicole Short?
- 2 Q. I did ask you about Nicole Short's vest.
- 3 A. Yes.
- 4 Q. Was it that question that then gave rise to --
- 5 A. It triggered -- yeah, sorry, that's why I've tried to --
- 6 yes.
- 7 Q. Right. So it was the specific question I asked about
- 8 whether you had any involvement with Nicole Short's
- 9 vest?
- 10 A. Yeah.
- 11 Q. Okay, thank you. And you've not been asked any specific
- 12 questions about that before?
- 13 A. No, I don't recall ever being asked any specific
- 14 questions. And that's why my answer is as vague as it
- 15 is in terms of vest and place it down until we know what
- 16 would be happening.
- 17 Q. When you gave your initial statements to PIRC, were you
- 18 aware at that time of the significance of Nicole Short's
- 19 vest?
- 20 A. No.
- 21 Q. Were you asked any questions by PIRC about the vest?
- 22 A. Not that I can recall. And the fact it's not in my
- 23 statement would suggest I hadn't been asked any
- 24 questions.
- 25 Q. Right. And so really the first ever time you've been

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1 asked specifically about it was when I asked you today?

2 A. Yeah. So there is my general awareness of the Inquiry.

3 I now know that there is an issue with Nicole Short's
4 vest in terms of I think a footprint and so on. But
5 this is my knowledge from the Inquiry that's in the
6 public domain, not from my recollection or my knowledge
7 at the time or since. So ...

8 Q. So we heard a lot of evidence about this last May --

9 A. Right.

10 Q. -- a year ago in May, May 2022, and there was some
11 publicity about that --

12 A. Yeah.

13 Q. -- aspect. Were you aware of that at the time?

14 A. Yeah, I think that must be where -- my recent knowledge
15 about the vest being an issue.

16 Q. Did that awareness of the publicity to do with the vest
17 may prompt you to remember anything?

18 A. No, because the provisions I provided to the Inquiry
19 since the May hearing, we've not gone -- so this wasn't
20 an issue for me, and nobody has asked me about this in
21 any of my provisions. So I'm only answering because
22 it's now a point of discussion today. It's not been
23 an issue for me in terms of either the significance or
24 lack of significance of it.

25 I'm just recalling back, did I engage with the

Transcript of the Sheku Bayoh Inquiry

1 officer? And, as I said, I engaged with all the
2 officers in that sort of one-to-one, but it was
3 merely -- my recollection is it was merely about body
4 armour and, "Yes, place it down whilst we work out what
5 to do with it". It's no more than that and I have no
6 recollection of conversations or significance or
7 anything like that.

8 Q. If an officer such as Nicole Short had approached you in
9 the PIM suite and had drawn your attention to an item of
10 clothing or body armour, which was of significance, or
11 she considered to be of significance, perhaps
12 evidentially, that may be of significance to the
13 investigation, why would you have acted in response to
14 that, if that had been the interaction?

15 A. So ... so I think what I would say is, you know, I've
16 responded to officers coming to me in a variety of ways,
17 depending on what they've asked. So we've got
18 an example in the log of a T-shirt being bagged, another
19 example of clothing, keep it in the locker. And, as
20 I say, my vague recollection of the body armour is "put
21 it down there and we'll work it out later". So that's
22 my recollection. Anything else would be sort of
23 hypothetical.

24 If there's a -- if an officer is -- so all officers
25 know about the retention of productions. So if there is

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1 a specific issue that somebody thinks needs to be dealt
2 with specifically, then there is an opportunity for that
3 to be voiced. I've no recollection of this being
4 a matter of significance at the time, of this being
5 a point of discussion, of measures having to be put in
6 place. It wasn't specifically raised to me, it wasn't
7 raised by the SIO, more than the general recovery of all
8 the clothing was as part of that sequence.

9 So I'm ...

10 Q. If an officer came to you as PIM and said, "Here is my
11 vest, I think I've got a footprint or a footmark on this
12 vest, it's of importance", is that something you would
13 likely note in your PIM log?

14 A. Yes, as I did with other items.

15 Q. And if an officer came to you and said that, and you
16 noted it in your log, would you also then go and speak
17 to the SIO about it or draw it to the SIO's attention?

18 A. I wouldn't -- I wouldn't leave the PIM log -- sorry,
19 leave the PIM log. I wouldn't leave the PIM suite to go
20 and specifically go and speak to an SIO about an item
21 of -- one item of clothing. We would put the clothing
22 to one side. If we had a bag big enough for body
23 armour, we'd put it in, the body armour, and then when
24 I have the discussion with the SIO, which included the
25 recovery of clothing -- I mean, that the SIO wanted all

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1 the clothing and all of the outer equipment, the
2 forensic recovery was to obtain everything. Maybe if
3 there was -- if the SIO was of a view, "I only want the
4 equipment from A and B", at that point I would say,
5 "Well, you need the equipment from C as well because
6 it's been brought to my attention that that's
7 an important piece of equipment".

8 That's -- does that help?

9 Q. Yes, thank you.

10 So in the particular circumstances of 3 May here,
11 would it have been open for you at some point to have
12 that discussion with either Pat Campbell or DCI Houston?

13 A. If the significance of the item had been brought to my
14 attention, then yes. But it hadn't, by the nature of
15 the fact that I hadn't recorded it, unlike other items
16 of clothing that I had recorded, and I haven't recorded
17 a specific conversation with the DCI about that specific
18 item, notwithstanding that his intention was to take
19 everything.

20 Q. So, in light of what you've just said, does it make it
21 less likely that the significance -- the vest and that
22 interaction with Nicole Short was significant? Does it
23 make it less likely that it was significant?

24 A. So she may have felt it was significant and she may have
25 felt that she was drawing my attention to it. Based on

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1 my own recollection and my notes, I haven't identified
2 that significance.

3 Q. You mentioned earlier that you'd prepared a lessons
4 learned document.

5 A. Yes.

6 Q. Can I ask you about that, please?

7 A. Yeah.

8 Q. It's PS01453. I think this is a four-page document that
9 you have prepared, and I think you say in your Inquiry
10 statement that you prepared it after 2015. Do you have
11 the date that you -- or round about the time that you
12 prepared it?

13 A. Obviously, I didn't date the document, which clearly
14 would have been handy now. My recollection was -- if
15 I said after 25th, my recollection was it was within --
16 I mean, I think it was about August of that year,
17 August 2015, that kind of timeframe.

18 Q. So within a matter of months?

19 A. So months after, yeah.

20 Q. I'd like to go through this with you.

21 You've talked about -- it's four pages, and you've
22 identified six lessons learned. Was there a specific
23 reason that you prepared this document?

24 A. So, I wasn't specifically asked to prepare the document.
25 I -- as I said, I'd been involved in post-incident

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1 management since 2009, it was an area of interest for me
2 as a police officer. I reflected on the day in question
3 that we've been talking about, and I felt there was --
4 it was important to learn the lessons from
5 a post-incident procedure point of view. And the best
6 way to do that was just to document, you know, my
7 experience and some of the lessons that I felt were
8 appropriate that came out of that, and submit that into
9 the organisation for their consideration of, you know,
10 taking post-incident procedures forward.

11 Q. Did you submit it into Police Scotland?

12 A. Yes. So at that point in time post-incident
13 procedures -- you know, because it was a firearms
14 thing -- was still within the remit of armed policing
15 command, and there's a chief firearms instructor
16 position in that, in that command, and I emailed that
17 individual, the Chief Inspector, who's the chief
18 firearms instructor, who has that responsibility
19 around -- at the time had the responsibility around
20 post-incident procedures and so on.

21 Q. Did you have any feedback yourself from sending the
22 document in?

23 A. No, so I didn't get any direct feedback about the
24 document at that time, but subsequently I've been
25 involved in some of the progression of post-incident

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1 procedures and so on in the organisation, just through
2 my continued role as a post-incident manager.

3 Q. As far as you know, have some of your recommendations
4 been implemented?

5 A. They have. I wouldn't take full credit for this
6 document initiating that, but they have. So that
7 sort of journey that post-incident management has been
8 on in policing more generally is now, you know, in
9 a very different place in 2023 to it was in 2015.

10 So, I mean, I don't know what detail you want to go
11 in this in, but things like, we touched on it before --

12 Q. I'm going to go through each of the levels with you, if
13 you don't mind.

14 A. So, yeah, so some of them we now see have been
15 implemented fully and others -- to be honest, others
16 have become less of an issue as things have progressed.

17 Q. Well, let's look at lesson 1, which we can see. The
18 initial comments just set out your involvement which
19 you've already given evidence about:

20 "Lesson 1: Police Scotland to consider developing
21 PIP SOP for Non-Firearms Police Contact Deaths)."

22 A. So we've discussed that, and I've referenced a sort of
23 similar sized document to the SOP we've referenced
24 today; there's now a similar one around DSI, as it's
25 called, for such circumstances.

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1 Q. So in around the August there still was not at that
2 stage a non-firearms specific PIP SOP?

3 A. So these have taken years to implement as
4 an organisation.

5 Q. Right. But they do now -- that does now exist?

6 A. It does, yes.

7 Q. And was that something that you recognised in 2015, in
8 May 2015, would have been to your benefit?

9 A. Yeah, absolutely.

10 Q. And in what way would that have helped you in your job
11 that day?

12 A. So you have the -- you have the two reasons. One is you
13 have the policy support. Although the process is very
14 similar, and we've done that as we've described it, you
15 still have the policy support. So where there are
16 nuances, that'll be called out in that policy. And in
17 terms of some of the discussions we've had about
18 definitions for this, that and the next thing, well,
19 there's clarity there because you've got it documented
20 in a policy.

21 But probably more importantly, where you have
22 something like that that's -- that's more general rather
23 than the specifics of firearms, then you have to do
24 an educational piece, awareness raising, to the
25 organisation. So you would expect, as we've done, you

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1 would expect that a policy, a more broader policy has to
2 be then educated to the workforce, to the management.

3 So you then have -- it goes into some of the later
4 lessons -- you then have a greater level of awareness of
5 everyone that's involved in the process, and if everyone
6 understands the process then the process will -- will
7 run far -- far smoother.

8 Q. And then let's move on to lesson 2:

9 "(Earlier identification of Principal Officers (by
10 PIM) may have led to better support to Detective
11 officers)."

12 Explain the background to this --

13 A. Yeah.

14 Q. -- lesson.

15 A. So I think, you know, some of the reflections today have
16 been about when I was appointed and the time it took me
17 to get there and so on. So things had been put in place
18 before I'd arrived and been appointed as a PIM, and in
19 an ideal world you would be there first and receive the
20 officers. This is one example of that where I was made
21 aware, sort of some time after, that two detective
22 officers I believe had attended at the scene and had
23 some involvement, and actually if I'd known that at the
24 time, one of two things would have happened.

25 Either they may have been considered principal

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1 officers as well and brought into the PIM suite, and so
2 we would have had those two officers involved in the PIM
3 process as well. And that depends on their involvement
4 at the scene, but I didn't know this on the day at all.

5 Or we could still -- if they weren't so directly
6 involved, ie they turned up in the immediate aftermath,
7 it might not be appropriate for them to be in the
8 post-incident suite but it might still be appropriate
9 for some other measures to be put in place from sort of
10 a welfare and so on point of view.

11 Q. So we've heard evidence that a DS Davidson and
12 a DC Connell had arrived towards the end of the
13 restraint and were involved in Hayfield Road. Are those
14 the two officers you're talking about?

15 A. So I was never given their names, but yes, they will be
16 the officers, and that's a really good example of how
17 they've turned up kind of after the initial response but
18 they've still been reasonably well involved. So, with
19 the wisdom of hindsight and so on and reflecting on
20 that, it may well be that we would have decided to have
21 brought them into the post-incident process as well.

22 Q. And there have been a number of questions asked about
23 why there was a distinction between DS Davidson and
24 DC Connell, and they were permitted to simply go about
25 their business that day and other officers were kept

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- 1 within the PIM suite?
- 2 A. There's the lesson. There's the lesson that we --
- 3 that -- so I, you know, I should've accepted that these
- 4 were the principal officers, I probably should have just
- 5 asked: was anyone else at the scene that we need to take
- 6 into account? And that didn't happen, and there's the
- 7 lesson.
- 8 Q. If you had carried out step 2, about obtaining basic
- 9 facts -- we've looked at the appendix N and it talked
- 10 about identifying the officers -- if you had carried
- 11 that out in a more formal way instead of being content
- 12 with the information you had, is that the type of
- 13 information that could have been flushed out?
- 14 A. It might well have been. It might have been.
- 15 Q. And so if you had carried out the basic facts more
- 16 formally, you could have worked out if anybody wasn't in
- 17 the PIM suite that maybe ought to have been or whose
- 18 role who would have been dealt with by you in your role
- 19 as PIM?
- 20 A. I mean, in terms of the PIM process, I should have
- 21 identified them earlier than that part of the process,
- 22 but you're right that that may have -- may have flushed
- 23 it out.
- 24 Q. Right. And nobody sort of mentioned this to you on the
- 25 day, that there were --

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- 1 A. No.
- 2 Q. -- other officers?
- 3 A. No, and of course that's -- you know, when you arrive at
4 something that's happened a couple of hours before and
5 is, you know, and everyone's -- you know, it's been
6 missed. It's been missed by a number of people in the
7 system, including myself, so ...
- 8 Q. Then if we look at what you've written in lesson 2,
9 you've said you prepared this in round about the August,
10 you say:
- 11 "About 1340 hours, same day Ch Insp Trickett spoke
12 with the appointed SIO, [Detective
13 Superintendent] Pat Campbell, he advised him the enquiry
14 was to be a PIRC investigation, instructions from PIRC
15 were to take external clothing from all Officers and
16 there was no need to take statements at this time."
- 17 Again, here it appears that you're saying that was
18 your understanding of the position on 3 May --
- 19 A. That's right.
- 20 Q. -- that Pat Campbell had said there was no need to take
21 statements.
- 22 A. That's right.
- 23 Q. This was round about August 2015?
- 24 A. Yes.
- 25 Q. Then you talk about a discussion, and you pointed out

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1 a section of the SOP covering clothing and:

2 "The rationale given for taking the clothing was
3 simply that it was standard to take the clothing of any
4 witness who may have had contact with deceased in
5 a sudden death enquiry. [Detective Superintendent]
6 Campbell asked to speak to the Officers and this was
7 facilitated."

8 I'm interested in this phrase about the rationale.
9 Taking clothes:

10 "... was standard to take the clothing of any
11 witness who may have had contact with deceased in
12 a sudden death enquiry."

13 How far back will that be standard practice? Is it
14 the same, the same time as the events and the incident
15 or is it within a number of hours, or ...?

16 A. Yeah, I think it's -- I think it's within that timeframe
17 of the interaction of the incident, is what he's
18 referring to there, and more broadly this is -- I think
19 I referenced the fact that the firearms SOP talks about:
20 the standard approach should be not to require the
21 clothing, because what's the evidential benefit of
22 taking that clothing?

23 So the standard position should be you don't take
24 clothing unless in exceptional circumstances, and it
25 references a couple of examples, whereas this approach

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1 was: we're going to take everything from everyone. So
2 there was a contrast between what the SOP said and what
3 the SIO's position on it was. And we carried out what
4 the SIO requested in that -- in that instance.

5 Q. So if we've heard evidence that someone was told because
6 they'd cuddled Mr Bayoh the night before that their
7 clothing was required, is that the type of standard
8 procedure that you would expect to recover clothing of
9 a witness?

10 A. I think that's a question for the SIO, if I may, because
11 I don't want to -- I'm not trained as an SIO and
12 I wouldn't want to stray into the policies and practices
13 and procedures of an SIO. That's beyond my skillset,
14 I'm afraid.

15 Q. That's fine.

16 Can we look at lesson 3, then, please?

17 A. Yeah.

18 Q. "(Recognition of PIM/PIP process and SOP by
19 Investigators -- Police Scotland and PIRC)."

20 Tell us what this lesson was in connection with.

21 A. So I think -- so, I mean, I've touched on this, I think,
22 a couple of times during the course of the day in terms
23 of: I felt at the time, and have reflected more broadly,
24 that there was -- although people knew the terminology
25 around post-incident procedure, post-incident

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1 management, they didn't actually understand what it
2 meant in a very practical way, and that created -- both
3 it was difficult for me to facilitate some of the things
4 I wanted to facilitate; it was also -- it could lead to
5 confusion, and I guess the example we've discussed is
6 the: do you mean an initial personal account or
7 a detailed account or an operational statement? So, you
8 know, we're not all speaking the same language.

9 And also at the very core of post-incident
10 management is the fact that these are professional
11 police officers who have done the job that we are paying
12 them to do and they're being treated as witnesses in the
13 post-incident suite, and therefore there is a process
14 that should be followed, you know, in order to secure
15 the evidence that's needed for the investigation and so
16 forth. But that doesn't mean that they're suspects in
17 a criminal enquiry, and the history of post-incident
18 management is how police officers have been treated as
19 suspects in criminal enquiries when actually they've
20 just been carrying out their job as society wants them
21 to carry out that job.

22 And so that's how post-incident management has come
23 about, it's to balance the absolute necessity for
24 an Article 2 investigation and the importance of that,
25 but also these are police officers doing the job we

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1 trained them; and that might include a lethal force, but
2 that's still the job we've trained them to do. So
3 they're not suspects in anything; they're police
4 witnesses who have carried out their job in line with
5 their training and so on.

6 So that's a really -- so detectives and
7 investigators, whose experience is that criminal
8 investigative approach, quite understandably through
9 their lived experience, policies and so on, will take
10 that approach, even if it's police officers that have
11 actually just carried out their duty. And that's the
12 point of that lesson.

13 So it's really quite a fundamental lesson for
14 policing in terms of understanding post-incident
15 management, and it's actually why post-incident
16 management was created to try and manage this, you know,
17 the balance between the absolute necessity for
18 an investigation with the fact that you're talking about
19 professional police officers carrying out their duties
20 and jobs in line with what they've been trained to do.

21 Q. Was there a concern before this SOP that officers who
22 were investigators, perhaps experienced investigators,
23 were treating other officers in a less favourable way or
24 in a different way to a civilian who would be
25 an eyewitness, for example?

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1 A. So, yes, I think the lens -- the lived experience and
2 lens of the investigators is through criminal
3 investigation, and this -- it wasn't a criminal
4 investigation, this is an Article 2 investigation, and
5 the police officers are witnesses who have carried out
6 their role in line with their training.

7 So that's a very different dynamic, and that's born
8 out of experience. So that's not -- and I'm not saying
9 Police Scotland experience or even Scottish policing
10 experience. That's UK policing experience where
11 ultimately officers who have carried out their role and
12 their job in line with training have then been treated
13 as if they're a suspect in a murder, and that's not the
14 case, and we have moved -- post-incident management and
15 the organisations have moved a long way from that and,
16 you know -- but that's what it's all about.

17 Q. Does the existence of PIP, post-incident procedure, give
18 rise to an immediate assumption now that the police have
19 acted professionally in accordance with their training
20 and their obligations as members of the police service?

21 A. Erm ... yes, I think it does.

22 Q. Is there the risk that it goes too far the other way?

23 A. There is the risk.

24 Q. And that perhaps that assumption, backed up by PIP,
25 reinforced by PIP, is that detectives investigating may

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1 overlook the possibility that there have been criminal
2 acts on the part of the officers?

3 A. Erm, I don't think that's the risk, because erm ...
4 because that also makes an assumption about the
5 professionalism of the investigators, which I don't
6 think is a reasonable assumption to make. And indeed
7 it's why we have PIRC.

8 So the independence of the investigation is now
9 borne out through PIRC so that you have -- and that's
10 an article -- that's part of Article 2, is to have
11 an independent investigation when force has been used by
12 the state. So the existence of PIRC is absolutely to,
13 I suppose, to mitigate the risk that you're
14 highlighting.

15 So ... so I think I'm probably agreeing with you,
16 actually, in terms of we've got -- the reason that PIRC
17 exists is to provide that independence to the
18 investigation so the concerns and the risks that you
19 highlight, you know, are not -- they're not borne out or
20 whatever. And notwithstanding the learning, I am of
21 a view that in 2015 if there had been criminal actions
22 by any officer there, that that would have been called
23 out and would have been -- those officers would have
24 been dealt with through a criminal justice process, not
25 been sitting in my post-incident suite, is my personal

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1 opinion on it.

2 Q. So there are risks, as we've described, but, in your
3 view, the existence of PIRC and the involvement of PIRC
4 in May 2015, if PIRC were acting adequately and
5 sufficiently and sufficiently independent, that would
6 have protected against those risks?

7 A. No, so I think there's a number of measures that protect
8 against the risk in terms of -- so there is a process,
9 it's a documented process, it's one that has to be
10 adaptable but in its generality is followed.

11 The process is -- and we touched on this earlier --
12 the process is there's a post-incident manager who is
13 independent of the line management and the investigation
14 who is delivering that process. There is then the
15 investigative strand that is also primarily by officers
16 that are unrelated to the incident, in the case of 2015,
17 you know, either collaboratively or interactively with
18 PIRC. And, you know, there are a significant number of
19 professional police officers in the whole of that system
20 to mitigate the risk that I think we're talking about
21 here.

22 Q. The risk that it's possible or there were potential
23 criminal acts on the part of the officers?

24 A. Yeah.

25 Q. And the safeguards against that going unchecked or not

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1 investigated would be the professionalism of the
2 detectives investigating and the existence and
3 involvement of PIRC?

4 A. I would suggest: and the post-incident process, and
5 actually the officers who were there. So we do have
6 officers that will report other officers who have either
7 criminally or behaved in a misconduct way.

8 So every police officer has their own roles and
9 responsibilities around integrity and fairness and
10 respect and the expectation that they will do the right
11 thing in that circumstance. So it starts -- it starts
12 with the officers that are there, it expands into the
13 processes that we followed, and everything that you've
14 said as well. So I think -- I think there are a number
15 of checks and balances in place.

16 And, I suppose, just one more thing, it also depends
17 when that criminality is known, doesn't it? So it goes
18 back to the: we know what we know at the beginning in
19 terms of the sit rep and so on, and if we'd known then
20 there was criminality, well, we would've taken action
21 then. Once the investigation, the enquiry took place
22 during that day, if there had been criminality raised
23 then, we would've taken action then; if it had come out
24 a number of days later, then we would've taken action
25 then.

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1 So I think there are a number of measures, and that
2 doesn't take away from the fact that we can always get
3 better and can always improve. So I'm not saying
4 there's a gold standard that was implemented; what I'm
5 saying is there are a number of checks and balances, and
6 actually organisationally we have improved those checks
7 and balances over the period of time between 2015 and
8 now.

9 Q. And the questions about the investigation and how it was
10 moved through that day itself and then further days,
11 that would be for the SIO to help us with?

12 A. That's right.

13 Q. Thank you.

14 So you've talked about lesson 3. Can we move on
15 further down the page, please, and then we're moving on
16 to lesson 4. Now, we can only see part of this on the
17 screen. It says:

18 "(Review section 13 of SOP in relation to clothing
19 to reflect PIRC stance of seizure)."

20 Could we move to the SOP, please, just briefly, so
21 that the Chair can see section 13.

22 (Pause)

23 Sorry, I don't have an exact number, but it's
24 section 13. Can we move down the page? Thank you.

25 Do we see this relates specifically to clothing, and

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1 there's an expectation that support will be given to
2 investigation strategies, and that includes a recovery
3 of clothing worn by the principal officers?

4 So to go back to your lesson, lesson 4, you were
5 suggesting a review of section 13 of that SOP, and in
6 relation to clothing to reflect PIRC's stance of
7 seizure.

8 What do you mean by that?

9 A. So this goes back to the commentary we've had about --
10 I suppose I'd describe it as the blanket approach to
11 take all clothing, all outer clothing and so on, and
12 that isn't reflective of what the SOP says. So the SOP
13 almost says the presumption -- in a firearms context,
14 the presumption should be that the officers keep the
15 clothing, because what are you proving by taking the
16 clothing? So at the time there was a -- what felt like
17 a real, what's the word, divergence of what the policy
18 said and actually the stance of PIRC at the time. From
19 2015 --

20 Q. Was that the stance of PIRC rather than the SIO?

21 A. That -- so ... so I think that was the stance of PIRC,
22 but I'm saying this with the lens of hindsight, that
23 this might have been discussed subsequent to the
24 incident. So if I knew at the time that this was --
25 I knew it was a PIRC enquiry and I was being asked for

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1 clothing, I'm not sure I'd joined those dots at the
2 time, but since then, this was discussed with PIRC in
3 some of those training days that I referred to --

4 Q. Okay.

5 A. -- when PIRC came to post-incident management days and
6 so on.

7 So I think -- well, the lesson is just that there
8 needs -- we need to reflect that, because there's
9 a divergence in what the policy says and actually what
10 PIRC's view on it was.

11 Actually, in 2023 that divergence probably doesn't
12 exist now, because it probably is just a kind of
13 a balanced and pragmatic approach to the seizure of
14 clothing. So it may be it aligns itself more to what
15 the SOP says now than ...

16 So it's been a journey in terms of where we go with
17 that, and I think people's understanding of, you know,
18 what they want to seize and why they want to seize it
19 is -- I mean, a good example in the firearms context is,
20 you know, only take the weapons that you need to take;
21 or in a Taser context, just take the Taser that's been
22 discharged, not everyone's Taser, because you don't have
23 to disprove that those have been discharged to prove
24 that this one has, and so on.

25 So there's -- I think there's just been a growing

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1 maturity of both organisations and the process and so on
2 of that. So I was probably just calling that out in
3 this recommendation, although it probably has been
4 superseded by progression.

5 Q. Yes.

6 Can we look at lesson 5, please, review of TRiM.

7 Sorry:

8 "... OH welfare support to Officers in light of
9 confidentiality/legal advice issues."

10 Tell us what this lesson was in connection with.

11 A. Yeah. So, what became app -- so because of the position
12 around the provision of statements, there was a desire
13 to understand obviously what the officers' experiences
14 were on the day. We wanted to refer them to TRiM, which
15 I think I said was -- so, trauma risk management
16 processes where -- but there's an element of -- there's
17 an element of the officers offering up a -- what took
18 place in terms of that interaction with TRiM
19 practitioners and occupational health, and it became
20 apparent that what they said in those circumstances
21 could then be disclosed to PIRC, as it would have been
22 at the time, and used.

23 So again there was almost a conflict between: well,
24 we want to give you this welfare support, but actually
25 if you -- if you say that the statements you give in

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1 relation to this welfare approach are disclosable and
2 therefore PIRC will take them, and yet your legal advice
3 is to not provide a statement.

4 So there was that -- there was that conflict going
5 on, and again this is probably a recommendation that
6 time and process has moved beyond, and I say that in --
7 because I'm not aware of it being an issue in any
8 subsequent post-incident process. But it was an issue
9 in the aftermath of this.

10 Q. So was there a concern that, in explaining the
11 individuals' experience in order to fulfil TRiM
12 procedures, they may have effectively been given
13 something like an initial personal account or
14 information that could have been to their detriment in
15 some way?

16 A. I mean, I'm not sure I'd use the word "detriment", but
17 certainly in conflict to that legal advice that they
18 were being provided. So on the one hand they're being
19 told: don't provide a statement based on your legal
20 advice. On the other hand they're providing a verbal
21 statement which has been documented in a TRiM or
22 occupational health manner and then that's been
23 disclosed. So the two are again in conflict with each
24 other.

25 Q. How has that been resolved since 2015?

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1 A. So my experience of post-incident management since 2015
2 is that the legal advice has changed and the provision
3 of personal initial accounts is far more common.

4 Q. Right. So it's your experience now that stage 3, the
5 provision of personal initial accounts, is often given
6 by officers who are going through PIP?

7 A. Yes.

8 Q. And is that because the legal advice has changed or
9 because of some maturity in the process, or both?

10 A. I think both. So I think it's maturity and confidence
11 in the process by all stakeholders.

12 Q. And then finally lesson 6. You talk here of:

13 "(PIRC interaction with PIM was non-existent --
14 investigative requests through SIO -- consider review to
15 identify best approach."

16 If we can bring that more fully on to the screen,
17 can you explain what this was in connection with,
18 please?

19 A. Absolutely. I mean, I think it's almost probably better
20 explained as I've touched on earlier into what it looks
21 like now. So I probably couldn't have put my fingers on
22 at the time what it should look like, but now, you know,
23 PIRC will interact with the post-incident manager
24 directly, so they'll have -- they'll appoint a senior
25 investigator, that individual will interact with the

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1 post-incident manager directly, that individual will
2 attend at the PIM suite, that individual will sit in and
3 brief the officers on the PIRC aspects of the process,
4 and therefore that officer sits within the PIM suite and
5 from that independence conferring perspective as well.

6 So that's what it currently looks like, and that
7 feels a much better place to be in -- in terms of the
8 collaboration and interaction with PIRC, and the
9 independence side of it that we've touched on today --
10 than we were in 2015.

11 Q. I think you said in 2015 you had no contact with PIRC --

12 A. Correct.

13 Q. -- on 3 May. Has that also helped increase the levels
14 of confidence between officers and PIRC?

15 A. Yeah, absolutely.

16 Q. There may have been some concerns that although
17 reassurances were initially given to officers in the
18 canteen, that in the absence of PIRC nobody would know
19 if things were going to change when they came to take
20 over. Would that be a concern that you recognise?

21 A. I don't think that was a specific concern of mine, but
22 if other people have voiced that then I would understand
23 that. I think it -- from my perspective, it's more the
24 practical aspect of what they're trying to achieve and
25 how they want to achieve it and, you know, having that

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1 direct interaction with the post-incident manager, and
2 actually -- and this isn't what I thought at the time,
3 but actually that whole -- the independence and the
4 being in the room and so on is all growing maturity. So
5 this is more about organisational maturity, I think,
6 you know, from 2015 to 2023.

7 Q. You've talked about -- is there anything else in terms
8 of lesson 6 that you want to draw to the Chair's
9 attention at all?

10 A. I don't think so.

11 Q. Are you happy --

12 A. Yeah, I think so, yeah, thank you.

13 Q. Thank you.

14 LORD BRACADALE: Could I just go back to lesson 5? You said
15 that over the years witnesses in this position are more
16 willing to give personal initial accounts. Is there any
17 reason why the giving of personal initial accounts could
18 not be obligatory?

19 A. Excellent question, sir. Again, I'm not sure I'm the
20 right person to answer that in terms of -- so the
21 "subject to legal and medical advice" has been in
22 post-incident procedures from as early as I have been
23 trained in it. Without knowing for definite, that
24 I am -- I'm sure that will have come out of the learning
25 that particularly the Metropolitan Police had in

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1 relation to their police shootings, because that's where
2 a lot of this has evolved from. And so I think that
3 that -- the access to legal advice is a key component
4 part of providing a welfare support to the officer, and
5 therefore if that legal advice is not to provide
6 a personal initial account, I'm not sure how you would
7 sort of get around that.

8 But it probably also ties into the comments I've
9 just made about the maturity of all the stakeholders,
10 that actually there is now an understanding from the
11 policing point of view, from a PIRC or IOPCC point of
12 view, and from a legal point of view, about what the
13 process entails and means, and therefore the legal
14 advice isn't as arbitrary as it was in 2015.

15 So, but if we could instruct an officer -- so my
16 understanding around operational statements might be
17 a good reference point as well. If we instructed
18 an officer to provide an operational statement, then
19 they could say, "At 7 o'clock on such and such
20 a date/time, I took duty. At such and such a time,
21 I left my duty", and they're still providing
22 an operational statement, but it's not to the detail or
23 the content that you would want.

24 So I think that there is a -- there's a discussion
25 to be had, and I'm not sure I'm the right person to have

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1 the discussion, around that balance between compelling
2 a witness and their rights and sort of responsibilities
3 as an individual, compared to the process and the
4 investigation and so on.

5 So, sorry I can't help further.

6 LORD BRACADALE: Thank you.

7 MS GRAHAME: When we're looking into these initial accounts
8 and the refusal to provide accounts on the basis of
9 legal advice, are you aware of the impact that that
10 refusal has in terms of public confidence and public
11 perception about the actions of the police?

12 A. Yes, but it does link back to the knowledge of the
13 process. So, the operational statements, full accounts
14 were never going to be given on the day of the incident
15 and would only ever come between two days and seven days
16 after. That's the process, that's the policy. That
17 wasn't understood, and therefore maybe if that had been
18 explained to the public, to whatever degree that
19 challenge was coming from the public, if that had been
20 explained, then actually it's not that the officers are
21 refusing to provide a statement; it's that they're not
22 providing a statement at this time. Actually the
23 procedure allows for them to not provide a statement at
24 this time. And, as I understand it, the officers did
25 provide statements, so this isn't a matter of the

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1 officers have refused to provide a statement. They've
2 provided a statement at an appropriate time based on, in
3 this instance, on their legal advice. So the officers
4 have all provided statements, as I understand it. Part
5 of the process allows them to obtain legal advice. The
6 process actually says don't take full statements until
7 two days after, up to seven.

8 So maybe this is more about the understanding of the
9 process and what it actually meant, and if that had been
10 explained when that challenge came in to the
11 organisation, then that would have maintained public
12 trust and confidence. But I understand in terms of how
13 it did happen, I understand why public trust and
14 confidence was dented. I absolutely understand that.

15 Q. Do you see any benefits in sharing more information with
16 the public about why things are done a certain way?

17 A. I mean, yes. I think policing generally has become more
18 open in its communications with the public and,
19 you know, in the roles that I've carried out I've had
20 a lot of public engagement and tried to be, you know, as
21 open as I can in terms of what we're trying to achieve,
22 because we're here to serve the public.

23 Q. Would you say that that approach has changed between
24 2015 and now?

25 A. Yeah, I think it has, I think it's ever-changing,

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1 because policing is, in my experience, an organisation
2 that tries to learn lessons. We have huge amounts of
3 experience of incidents, they are ongoing all the time,
4 and we do try to a greater or lesser extent learn
5 lessons from those incidents, implement those lessons
6 and continuously improve as an organisation.
7 Post-incident management's probably a good example of
8 that, but it's not -- you know, it's by no means the
9 only example, in every area of policing, and things have
10 improved significantly, you know, in my 24 years of
11 service. We do things very differently now -- not very
12 differently now, but better now in many, many areas of
13 policing than we did when I joined. That, I think,
14 demonstrates an organisation that is learning and trying
15 to continuously improve to the benefit of the public.

16 Q. You mentioned a moment ago the sort of timeframe of
17 48 hours and seven days; we looked at that when we
18 looked at the SOP. What happens if officers don't give
19 an account within that seven-day period?

20 A. So ... so my experience of post-incident management
21 since this incident is that we've never encountered that
22 since this incident, in terms of post-incident
23 management procedures, ie accounts have been given
24 within the timeframes permitted within that procedure.
25 I think the specifics of this incident it's ... you've

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1 got to understand why. I don't think there's a --
2 there's not a ... you know, there's not some sort of
3 intervention -- well, there were interventions that were
4 put in place that ultimately made the officers provide
5 statements.

6 So, again, I think it's understanding why it
7 happened and how to -- how to work through that so that
8 they provided statements, and that is -- now, I wasn't
9 directly involved in that, so again it's maybe the
10 evidence of others that can provide that information
11 more clearly. But the circumstances that were faced
12 were worked through and, as I understand it, the
13 officers did provide statements, notwithstanding it was
14 outside that timescale, but that was for -- from their
15 perspective, for good reason.

16 Q. When you say interventions were put in place, what are
17 you talking about?

18 A. So from the position -- so this isn't my direct
19 evidence. So when I -- so the discussion around the
20 provision of statements was the discussion that carried
21 on beyond my role as post-incident manager and involved
22 the Federation and PIRC. But my understanding is
23 ultimately those officers did provide statements, and
24 therefore they moved from a position of "legal advice
25 was not to provide statements" to a position where they

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1 were happy to provide statements, and provided them.

2 Q. So that was --

3 A. So the interventions are, "How did we get from that
4 stage to that stage?" is what I meant.

5 Q. And that'll be something that we would need to speak to
6 SPF or PIRC about --

7 A. Yeah, the --

8 Q. -- to get more information?

9 A. Yeah.

10 Q. You weren't involved --

11 A. No.

12 Q. -- with those discussions?

13 A. No.

14 Q. Now, we know that on 3 May itself there were a number of
15 statements taken from civilian witnesses, they were
16 asked to provide statements, and you'll see that that
17 may appear to members of the public to be them being
18 treated differently to police officers who were not
19 being asked to provide statements.

20 Can you explain how that perception of differential
21 treatment has impacted on matters on 3 May or later?

22 A. So, I mean, we touched on this earlier in terms of the
23 police officers being professional witnesses, in terms
24 of the research that indicates that they will fully
25 recall what happens more clearly if they're given the

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1 two rest periods, and therefore the police process has
2 evolved to put that in place.

3 The question, I suppose, is: is that the same for
4 civilian witnesses? And --

5 Q. Yes. They're not being given two days, they're --

6 A. They're not, so --

7 Q. -- obviously being asked to give statements on the day
8 itself.

9 A. So there's probably two aspects to that. One is the
10 differential between a police officer's active
11 involvement in the incident and the traumatic impact
12 that might have on the officer, which may be different
13 from a civilian witness; but also, more broadly, the
14 fact that actually we've learnt some of these lessons in
15 terms of how we interact with victims of crime as well,
16 and we don't necessarily take full accounts from
17 witnesses of crime as soon as they report something to
18 us. The best example actually at the moment is rape
19 victims, whereas we may well take full accounts from
20 them a number of days after the incident.

21 So there's probably two answers to that question,
22 one that's sort of my -- the immediate difference, there
23 is a difference, these are police officers who have been
24 directly involved and that direct involvement means that
25 they are an active participant and therefore, you know,

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1 that's why they're being treated different as opposed to
2 a civilian witness who may be observing it, but there's
3 the broader point there around actually some of that
4 learning is valuable learning for wider investigations.

5 Q. It would appear from the existence of the PIP SOP that
6 that recognition was there for officers who were
7 involved in an incident be given 48 hours before a full
8 detailed statement is taken, or account.

9 We have also heard evidence about Collette Bell, who
10 was the partner of Sheku Bayoh, who was told -- a death
11 message was delivered and she was told about his death,
12 and then a statement, a lengthy statement over a number
13 of hours was taken.

14 Have lessons been learned in relation to that
15 differential treatment between the partner of the
16 deceased and officers?

17 A. I think that's a matter for the investigation side.

18 Q. Okay.

19 A. It wouldn't be right for me to comment on that as
20 a post-incident manager.

21 Q. Can I ask you to consider section 14 of the SOP, please.

22 LORD BRACADALE: Ms Grahame, are you going on to a new
23 chapter with this?

24 MS GRAHAME: Yes. Sorry, I didn't appreciate the time.

25 LORD BRACADALE: I think we'll stop there and continue at

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1 10 o'clock tomorrow morning.

2 (4.13 pm)

3 (The hearing adjourned until 10 am

4 on Wednesday, 8 March 2023)

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