

Transcript of the Sheku Bayoh Inquiry

Wednesday, 8 March 2023

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(10.00 am)

(Proceedings delayed)

(10.03 am)

CHIEF SUPERINTENDENT CONRAD TRICKETT (continued)

LORD BRACADALE: Good morning, Chief Superintendent.

Ms Grahame.

Questions from MS GRAHAME (continued)

MS GRAHAME: Thank you very much.

Good morning.

A. Good morning.

Q. Could I return to the aide memoire that we looked at yesterday. I know we're going back to something we dealt with. This is PS18503. It's on the screen now, if that makes life easier. I really just want to ask you, because I didn't ask yesterday: you'd mentioned that the PIM log was a style format that you'd been given at a training course, where did this aide memoire come from?

A. So the same training course.

Q. So was this for an English training course that you'd then taken to use on 3 May 2015?

A. Yeah. So, at the time, it was Kent and Sussex police were deemed to be leading PIM training across the UK, so they came up and trained a number of us in Scotland.

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1 Q. And that wasn't a document that was typed up by you
2 then, it was --

3 A. No.

4 Q. -- a style that you found in the papers?

5 A. That's right.

6 Q. Thank you.

7 We were also going through the PIM log yesterday,
8 PS00387, and I'd like you to look at another copy that
9 we have of this PIM log. Now, there are additional
10 sheets at the back and some of them have handwriting on
11 them. So this is PS05536. If we can look at the very
12 back of that, so my version, it's pages 37 and 39.

13 (Pause)

14 Can you move that slightly so I can check -- this is
15 page 39. Can we start with 37, please. Now, it's been
16 drawn to our attention that the copy that was in your --
17 the hard copy that you looked at yesterday, that we
18 looked at yesterday, did not have these additional pages
19 at the rear. In fairness to you, I don't want to leave
20 anything out that you might think is significant.

21 A. No, no.

22 Q. So this is a typed paper --

23 A. Yeah.

24 Q. -- which is headed up "OP Birnie - Post Incident
25 Procedures - Personal Welfare Strategy". Is there

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1 anything that you -- was this part of your PIM log?

2 A. So it's not part of the log, so this is a standalone
3 document that I produced either the day after or
4 a couple of days after 3 May. So within the PIM SOP, it
5 talks about developing a welfare strategy for the
6 officers, for the ongoing welfare support, as the
7 process evolves. So this is beyond day one of
8 post-incident procedure.

9 So what I decided to do was to document what that
10 strategy would look like, which is the document we're
11 looking at there, which is just a one-page explanation
12 of what we were going to do. And then we basically --
13 so there was a transition between post-incident
14 management and line management, so the line management
15 started to take on the greater burden of that welfare
16 support in the days after the day of the incident. So
17 this was a way of documenting what needed to happen and
18 allowing that sort of formal handover, if you like,
19 between myself as a post-incident manager and the line
20 management.

21 So there's a document that you're seeing at the
22 moment, which is what we're going to do with each
23 officer, and then line management then sat with each
24 officer and went through that document and recorded --
25 so I don't know if you scroll up, if there's then

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1 a template afterwards, which I called appendix A.

2 Q. There's a --

3 A. Yeah, so this template that you're now seeing,

4 effectively the inspector, I think it was Alan Seath was

5 the inspector at the time, who took on that line

6 management responsibility. So he sat with each officer,

7 went through a strategy, and the questions in the

8 strategy and the -- or the points in the strategy and

9 completed this template for each officer, and obviously

10 depending on what the officer said depends on what's

11 recorded here and what action would be taken to support

12 their welfare in the days and weeks following the

13 incident.

14 And that was -- that was also, if you like, the

15 handover point between the post-incident process and the

16 more normal line management welfare support process.

17 Q. We will see Alan Seath's name in your PIM log shortly

18 when I come back to that.

19 A. Yeah.

20 Q. So this was a standalone paper, not actually part of

21 your PIM log?

22 A. That's right, yeah.

23 Q. And when you mentioned page 37 you said you prepared

24 that document for the purposes of the handover to line

25 management. When did you prepare that document?

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1 A. So it was either on the Monday or the Tuesday, so it was
2 one of the --

3 Q. 4 or 5 May?

4 A. Yeah, and it was just in the immediate -- I probably put
5 in the PIM log when I -- when I spoke to Alan about it,
6 so it would be in the days, you know, the day before
7 that that I produced it, in the immediate aftermath.

8 Q. Then you will see on page 39 that there's some
9 handwritten notes on a sheet of A4.

10 A. Yeah.

11 Q. Is this your writing?

12 A. So this is my writing.

13 Q. I just wanted you to confirm whether or not there was
14 anything significant that you'd written on that page
15 that you felt you maybe didn't have yesterday -- that
16 maybe you didn't have yesterday and you didn't have
17 available to look at.

18 A. Yeah. So again, this is a standalone piece of A4 paper,
19 this isn't part of the PIM log.

20 Q. Right.

21 A. This -- so I have no recollection of actually writing
22 these notes and just the short time ago is the first
23 time I've seen them since 2015. So just to be clear on
24 that.

25 So my assessment of this is that these are the notes

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1 that I wrote during the teleconference, so if you -- and
2 actually, in my mind, it explains why I was able to
3 complete the log, the sit rep section of the log in some
4 detail when I got to Kirkcaldy. So at 11.24, I've
5 written in the PIM log, as we discussed yesterday, and
6 obviously in the sit rep section, I've put a series of
7 notes.

8 And actually, when I now look at this document,
9 these are the same notes with a little bit more detail
10 in them, but essentially the same notes that I've copied
11 across into the PIM log when I've got to Kirkcaldy.

12 So it's -- this isn't a formal document, this is
13 an A4 bit of paper that I've scribbled on as that
14 teleconference is ongoing, but the content of it, if we
15 went through it, is, you know, almost identical to the
16 notes that I copied into -- into the PIM log,
17 notwithstanding some details are missing from the PIM
18 log that are in this.

19 Q. And do we also see that PC Shaw's name is mentioned,
20 which you explained yesterday was a typo?

21 A. Yeah, so that should be PC -- that's where the typo
22 originated from.

23 Q. Should be Nicole Short.

24 A. Indeed. And that, again, that was copied in to that
25 page 2 of the PIM log that we went through yesterday.

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1 Q. Then if we go up, so people can see this on the
2 screen --

3 A. Yeah.

4 Q. -- you mention "0910 Critical Incident"?

5 A. Yeah.

6 Q. And that was prior to your teleconference which was --

7 A. Yes.

8 Q. -- I think you said 9.30?

9 A. 9.30, the teleconference started, that's right.

10 Q. And you mentioned Superintendent Craig Hall?

11 A. So my recollection, he was the on-call professional
12 standards superintendent, so I didn't really have any
13 direct engagement with him, but I've obviously just
14 jotted his name down when it's been referenced in the
15 teleconference.

16 Q. Thank you. Then there's mention, if we can carry on on
17 going down the page, "Fed rep with officers".

18 A. Yeah.

19 Q. "(PIM approach)", what does that mean?

20 A. So I think that is, when we discussed yesterday about
21 Chief Super Garry McEwan saying, "I think post-incident
22 procedures is appropriate for this situation", and the
23 ACC agreeing with that and making the decision to
24 appoint a post-incident manager and that's where I've
25 written that PIM approach. And if you remember also

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1 there was the instruction to me to move from Dundee to
2 Kirkcaldy, and that's essentially what I've noted there.

3 Q. Then the next line, "Female report", what does that
4 actually say?

5 A. I don't know. So "Female report male" and then that
6 next word, it's "ING" and it begins with an "M", but
7 I'll be honest, I'm not sure what that word actually is.
8 Apologies.

9 Q. I'm not going to make any suggestions to you.

10 A. Yeah. Apologies, I don't know. Then obviously there's
11 an arrow referencing a victim, so it suggests to me that
12 a female is reporting that a male carried out an action
13 towards a victim, but beyond that I wouldn't want to
14 elaborate, because I can't -- I can't read my own
15 writing, I'm afraid.

16 Q. And the "CIA" reference?

17 A. So community impact assessment. So for an incident of
18 this significance and an incident that's been declared
19 a critical incident, one of the key components of
20 a critical incident management is to create and maintain
21 a community impact assessment. So there is a formal
22 template, a document that exists in policing that is
23 completed and you'll see that I've then referenced that
24 the local CI is out. So that's the area commander,
25 Nicky Shepherd, who was -- by "out", I mean has come out

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1 and put herself on duty and has clearly been given the
2 responsibility to start to develop that community impact
3 assessment.

4 Q. Then there's mention in the handwriting, if we can come
5 up the page, "1100 - Gold [Group]?" And then "Crown
6 office PIRC led enquiry".

7 A. Yeah.

8 Q. "0955 Appointed PIM", and that again is consistent with
9 what you've said in your PIM log?

10 A. Yeah.

11 Q. Then the references thereafter?

12 A. So I -- I think, and, as I say, this is based on my
13 assessment of this document ten minutes ago, I think
14 that those last ones -- five lines, have been written
15 later, because when I got to Kirkcaldy -- if you
16 remember when I arrived at Kirkcaldy, I spoke and was
17 briefed -- briefly spoke with the area commander,
18 briefly spoke with Garry McEwan and was being given very
19 basic information, and that's when I became aware of the
20 individuals that were involved.

21 So Detective Superintendent Campbell is the SIO, so
22 I've jotted that name down. It looks actually I've used
23 a different pen for that final bit of the document.
24 Inspector Jane Combe, as we know, is the PIM support
25 officer. Amanda Givan is the name of the Federation

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1 rep.

2 "Due to finish at 4 pm", the officers were early
3 shift so that's me, I think, documenting what their duty
4 time should have been.

5 And then I think the final line as in "Jane - FME",
6 so that's forensic medical examiner, I actually think
7 that's probably, again, I've used that as a note later.
8 So if you recall at the meet and greet, I reference
9 "medical" and the action was for Jane to take that
10 forward. I think I've just jotted that down at that
11 similar point.

12 For this, I've referred in my previous statements
13 about a PIM folder that I used to carry around for when
14 I was -- if I was required to be a post-incident
15 manager, that contained documentation and it clearly
16 contained some blank A4 paper as well, and I've just
17 used that as a scribble pad and then transferred that
18 information into the PIM log when I was able to do so.

19 Q. Thank you, that's great.

20 Could we go back to the PIM log, then, please. We
21 can use the version that we had yesterday or we can use
22 this version, page 14. I think we were moving on to
23 15.30, which should be at the bottom of that page.

24 A. Yeah --

25 Q. And it starts:

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1 "Discuss length of time of recovery clothing with
2 [Detective Superintendent]."

3 Then if we can move on to the top of page 15:

4 "Campbell -- stated he would speak with
5 DCI Stuart Houston."

6 And we mentioned DCI Stuart Houston yesterday.

7 A. That's right.

8 Q. I'm interested in this entry, if we can maybe go back to
9 15.30 at the bottom of the previous page:

10 "Discuss length of time of recovery clothing ..."

11 We've heard evidence that the officers had returned
12 to Kirkcaldy Police Office from Hayfield Road early in
13 the morning, roughly around 8 o'clock. You'd prepared
14 officers with your meet and greet at 11.30. You'd
15 mentioned clothing at that meet and greet. And then
16 you've noted in the PIM log, and you spoke about this
17 yesterday, that Pat Campbell had mentioned clothes in
18 a bag when he spoke to officers at 13.41.

19 What was the purpose of this discussion at 15.30
20 with Detective Superintendent Campbell?

21 A. So again, just slightly further up at 14.00, and we
22 spoke about this yesterday, at 14.00, I spoke to DCI
23 Stuart Houston about the process we were going to
24 undertake to recovery the clothing. And at 15.30 that
25 process had not started and I was concerned that time

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1 was moving on. The officers had been on duty for now
2 their full period of duty in normal terms and from
3 a welfare point of view, this is a process that whilst
4 we understand it needs to take place and how it's going
5 to take place, we need to start the process so that the
6 officers, you know, get through that process as promptly
7 as we can do, so that the officers' welfare can be
8 maintained. And actually, at this point, we should be
9 thinking about them going off duty, not maintaining them
10 on duty for an extended period of time.

11 So that was the conversation, I expressed my concern
12 about the length of time it was taking.

13 Q. And was that something that the officers were feeding
14 back to you or just something that you prompted as PIM?

15 A. Both. So there was commentary from a couple of officers
16 about the length of time that the process was taking and
17 my responsibility, as the PIM, to try and balance those
18 two aspects.

19 Q. Then if we move on to the next page, do we see that
20 within around half an hour, about 1600, Craig Walker
21 hands over his uniform and then there's a series of
22 entries in the log about officers handing over uniforms
23 and going to see the doctor.

24 A. So essentially that's the process that we had discussed
25 at 2 o'clock, that's the process starting at 4 o'clock,

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1 and then it was a -- you know, a fairly -- well, you see
2 the length of time it took, still quite a lengthy
3 process, but nevertheless there was an efficiency of the
4 process going on then.

5 Q. So the officers had been kept in the canteen, the PIM
6 suite, for over seven hours from their return to
7 Kirkcaldy Police Office by that stage. Looking back
8 now, what would you say about the length of time that
9 they were kept there prior to getting their clothes,
10 their uniforms taken?

11 A. So I think, as we discussed yesterday, post-incident
12 processes do take time, and there's an acknowledgement
13 of that. And indeed, the meet and greet refers to that
14 sort of making sure the officers are aware of the time
15 that these things are going to take. Equally, we need
16 to balance that and be as efficient as we can be. And
17 that's why I raised those concerns about the length of
18 time it took.

19 Q. Looking back now, do you think you should have pushed
20 more in terms of making progress with that element of
21 the procedure that day?

22 A. I think my responsibility is to raise their concerns, my
23 concerns and the concerns of the officers to the SIO,
24 the SIO and indeed the DCI who was delegated that task
25 to put those activities in place as quickly as they can

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1 in order to facilitate that. So I think I carried out
2 my role in terms of raising those concerns, and indeed,
3 you know, a short time after I raised those concerns,
4 the process started.

5 Q. We've heard evidence that in order to complete use of
6 spray forms and use of force forms that the officers
7 would have required access to computers. We've also
8 heard that there weren't any computers available in the
9 canteen.

10 Were you ever asked by any officers whether they
11 could have access to computers to complete those forms?

12 A. No. I've no recollection of an officer asking for
13 access to a computer.

14 Q. If you had been asked, is that something you would have
15 noted in the PIM log?

16 A. It is, and ... so I think there's a couple of issues
17 there in terms of the -- so if I -- so to facilitate --
18 if I'd been facilitating officers accessing another
19 office with computers to carry out whatever piece of
20 work, then I think that is absolutely something that
21 would have been recorded there in the same way that
22 other activity has been recorded. There probably would
23 have been a conversation, if that had come forward,
24 about what they were -- what activity they were going to
25 undertake and what they were going to document, based on

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1 the legal advice that they'd been given at that point in
2 time.

3 Q. If you had been asked to facilitate computers or access
4 to computers to complete forms, is that something you
5 would have been able to do in Kirkcaldy?

6 A. I think, as I said yesterday, I'm not familiar with the
7 office layout at Kirkcaldy. So there will be an office
8 with computers that the officers use going about their
9 day-to-day business, if that office was full of
10 detectives, for example, I don't know, or PIRC
11 investigators, so I can't really answer that question
12 because the enquiry was never made and therefore I never
13 went and established if there was space or not. There
14 may or there may not have been.

15 Q. Is it generally part of PIM to facilitate access to
16 computers to allow officers the opportunity, should they
17 wish to take it, of completing paperwork?

18 A. No, it's not -- this is not -- this is not part of the
19 process that's in the SOP, there's no -- there's no
20 section headed, "Access to computers for police
21 paperwork", it's not part of the PIM process.

22 My experience of post-incident management, well,
23 throughout my time of being a post-incident manager is
24 that that isn't something we do, that the important part
25 is the process that we've discussed yesterday, the

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1 provision of accounts. And actually, once the -- and we
2 spoke yesterday about how there might be different
3 options around the personal initial account, so that
4 might be something that we would facilitate computer
5 access for them to type a personal initial account.

6 My experience had been, probably because of the
7 timescale, is it had been more a written document, but
8 both options are available. But beyond the personal
9 initial account, that's normally one of the last things
10 that takes place prior to the officers leaving the PIM
11 suite and going off duty.

12 So that, being able to access their -- a computer in
13 order to carry out other business, if you like, is not
14 part of the PIM process.

15 Q. There was, in the SOP we looked at yesterday, the PIP
16 SOP. The procedure set out envisages the stage 4
17 statements, which were principal officer statements, but
18 not that they would be done on the day. 3 May, we're
19 talking about. They would be given at least 48 hours to
20 prepare those.

21 Were Amanda Givan and the principal officers aware
22 of what was expected in terms of initial personal
23 accounts? Did you make them aware that that was
24 something that would be looked for prior to them going
25 off duty?

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1 A. So, if we -- so in the meet and greet, if we remember,
2 we spoke about this yesterday, in the meet and greet,
3 there was part of the meet and greet where you lay out
4 a post-incident process, which includes the provision of
5 accounts, and that's what I laid out at the beginning in
6 that initial meet and greet.

7 Q. Can we look at the aide memoire again, please, PS18503.
8 We can move down, please. Which part of the
9 aide memoire indicates where you set out the four stages
10 of PIP?

11 A. Just scroll down a little bit further. So, at the end,
12 it talks about initial accounts. So that's -- that's
13 why I spoke about the process --

14 Q. Thank you.

15 A. -- you know, as the process should be.

16 Q. So it was a specific part of -- one of the bullet points
17 was to explain about initial personal accounts, which
18 would be stage 3 --

19 A. That's right.

20 Q. -- of the procedure?

21 I think you said yesterday that you did cover all
22 the bullet points in the aide memoire?

23 A. That's right.

24 Q. Were there any questions about what an initial personal
25 account was?

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1 A. So no specific questions that I can recall, but if -- as
2 I said yesterday, what I tried to do with the
3 post-incident procedure was not use the precise language
4 of a firearms post-incident procedure that I knew these
5 officers were not familiar with. So throughout my
6 explanations to the officers, I tried to use language
7 that I knew that they would understand.

8 So if I used "personal initial accounts" or if
9 I talked about "initial statements", I can't say 100% at
10 this point, eight years on. What I can say is that
11 I took the process and I tried to explain it to officers
12 that have never been either briefed, trained or
13 experienced at post-incident procedure process. So it's
14 not -- there isn't a clinical interaction going on
15 between me and the officers. There is a supportive,
16 explanatory approach being taken by me, so that the
17 officers, particularly in, you know, the fact that
18 they've just experienced that difficult situation,
19 understand what I'm trying to say.

20 So I ... I imagine that I was talking about initial
21 statements as much as personal initial accounts.

22 Q. As part of your explanation, did you explain the
23 distinction between what you were calling initial
24 statements and what officers may have understood to be
25 a typical operational statement?

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1 A. Yeah, so I explained the fact that full statements would
2 be provided in a couple of days' time.

3 Q. And did you give an explanation that distinguished what
4 an initial account or --

5 A. Not in any great detail.

6 Q. Was it clear to the officers, from your explanation,
7 that these initial accounts would be much briefer? And
8 yesterday, you talked about it being no more than a page
9 of A4. Was that something that you explained?

10 A. So the detail that we've discussed, initial accounts, is
11 not the detail that I described to the officers at the
12 time. So I would have used the language around initial
13 statements, initial accounts. And at that point in the
14 meet and greet, I didn't go into any more detail.

15 If the process had moved on, as it is intended to,
16 and we got to the stage of providing initial accounts,
17 then the role of the PIM is to give that level of detail
18 about what should be included in the post -- in the
19 initial personal account. That's not -- you don't go
20 into that level of detail in that initial briefing,
21 because there's a number of points that you cover. When
22 you get to that stage in the process -- and also they
23 wouldn't remember, so when you get to that stage in the
24 process, you would then give them more detail as we were
25 discussing and as we discussed yesterday.

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1 Q. At what point -- you have talked about them seeking
2 legal advice. Would it not assist officers to have more
3 of an explanation about what is being expected of them
4 in terms of providing initial personal accounts in order
5 that they can discuss that with their lawyers and take
6 advice about whether or not to give those initial
7 personal accounts?

8 A. So ... (Pause). I mean, my assessment at the time was
9 that they're obtaining legal advice from an experienced
10 legal professional appointed by the Federation. And
11 again, probably an assumption on my part that that
12 individual would have knowledge of post-incident
13 procedures. So I have -- and we spoke about this
14 yesterday in relation to my assumptions around people's
15 knowledge about post-incident procedure to a certain
16 extent, I made an assumption that the Federation --
17 Federation appointed legal adviser would have
18 an understanding of post-incident procedures and
19 therefore the advice that they were being given was
20 relevant to post-incident procedures.

21 Q. Looking back now on that assumption, given the evidence
22 you gave yesterday about many police officers not having
23 an awareness about post-incident procedures, given the
24 SOPs are not law, what do you think about that
25 assumption now, looking back?

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1 A. So I would tie it into the discussion we had yesterday
2 about the maturity of all the stakeholders in
3 post-incident procedure. So I would still assume that
4 there was a level of knowledge there, but I -- I can't
5 say for definite, but I would assume that there was
6 a level of knowledge there, even in 2015, because --
7 well, I was trained in 2009, so 2015, it wasn't new, it
8 was something that had been, you know, around before
9 I was trained. So even if you went from 2009, that's
10 still a number of years before.

11 So ... so I -- so, my reflections -- so it links
12 into the experience of all key stakeholders. Everyone
13 now, in 2023, is much more aware of post-incident
14 procedures and therefore the whole process works far --
15 in a far more sophisticated, slick and efficient fashion
16 than it did in 2015. In 2015, there was a level of
17 knowledge of post-incident procedures, but it is clear,
18 and it's clear through my lived experience of going
19 through it, that that level of knowledge is what -- not
20 what it is now and what it should be. So that's that
21 continuous improvement side.

22 If I could have done things different on the day, so
23 I have roles and responsibilities around the delivery of
24 the process and the procedure, I can't take that greater
25 responsibility of educating everyone involved in the

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1 incident at the time of the incident. That's
2 an impossible ask.

3 So yes, it would have been far better if all the
4 stakeholders knew far more about post-incident
5 procedures, and the outcomes would have been different
6 if that had been the case, but it wasn't the case. And
7 so I did my best in the environment I was in and the
8 level of knowledge that the -- all the organisations and
9 key stakeholders had around post-incident procedure.

10 Q. And just to be clear, are you including the lawyers
11 acting for SPF or for the individuals as key
12 stakeholders?

13 A. I am.

14 Q. Can I ask you about some evidence that we heard from
15 Amanda Givan.

16 LORD BRACADALE: Just before you do that, Ms Grahame, if
17 I could just pick up on what you said about the
18 opportunity to complete forms. Am I right in thinking
19 that where a spray is discharged, there's a requirement
20 to fill a form up?

21 A. So there are -- indeed, sir. So there are use of force
22 forms that are internal police forms. So -- and if we
23 looked at the SOP or certainly the custom and practice
24 around use of force forms, it is usual in the "business
25 as usual" sense, it is usual to complete those forms

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1 prior to finishing duty.

2 So in a normal incident where CS had been
3 discharged, officers, when they were back at the
4 station, would complete sort of both criminal justice
5 processes and those internal forms such as the use of
6 force form for discharging PAVA. That form isn't part
7 of a criminal justice evidential procedure, it's part of
8 an internal mechanism for monitoring the use of force by
9 the organisation --

10 LORD BRACADALE: Can I just interrupt? Is there a statutory
11 requirement to complete a form in respect of discharge
12 of spray?

13 A. Not that I am aware of, sir, no. I think that is
14 an internal SOP police procedure to complete that form.
15 And typically, it would be completed before that tour of
16 duty, but equally, in certain circumstances, it could be
17 completed the following day, for example, and that's
18 still -- you know, that's still sufficient time to
19 trigger the internal processes that that form triggers.

20 There is -- so use of force does get assessed by
21 health and safety, so there will be requirements under
22 health and safety legislation around our monitoring from
23 a health and safety perspective, but that isn't as time
24 critical as it needs to be done before the end of that
25 duty. That can be picked up through the normal business

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1 processes the following working day, for example.

2 LORD BRACADALE: Thank you.

3 MS GRAHAME: Thank you.

4 We've heard evidence about a memorandum that was
5 issued, which came into effect from 1 April 2013, which
6 indicated that because a CS spray is a firearm in terms
7 of the legislation, that it was a legal requirement of
8 officers to complete a form if they had discharged their
9 spray. Do you remember anything about that from 2013?

10 A. I don't remember that memo from 2013, no, I'm sorry.

11 Q. Do you accept that perhaps you could be mistaken about
12 whether or not there is a legal requirement to complete
13 the CS spray discharge --

14 A. Yeah, absolutely. And if that has a timeline on it as
15 well in relation to when it needs to be submitted, then
16 obviously that's the memo that has been circulated.

17 Q. As I understand it, there is a time requirement and it
18 was to be sent to the training department email address
19 and then it would be forwarded to PIRC within -- and my
20 memory may be flawed, but it was within 48 hours,
21 I think.

22 A. Right. So that's -- I mean, that's still a similar
23 process that takes place today. So there is -- so, in
24 normal business, when PIRC haven't been directed to lead
25 an investigation, then PIRC are notified through

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1 a reporting mechanism of every discharge. And so that's
2 a normal business process, and if that's supported by
3 a legal requirement, then I accept that that's the
4 position, that's normal business process.

5 In the circumstances that we're in at the moment,
6 PIRC have been directed to -- to make a full enquiry of
7 the full circumstances. So they are -- if you like,
8 they have that notification that CS has been discharged,
9 because they have been briefed on that as part of the
10 investigation. So the report doesn't need to -- doesn't
11 trigger something additional, because PIRC are already
12 engaged, would be my assessment of that.

13 Q. Are you suggesting that because PIRC are leading the
14 investigation that negates the necessity to complete
15 a CS spray form, use of spray form?

16 A. So there are other reasons for submitting the form, it's
17 an internal -- it triggers -- so PIRC need to be
18 notified, which is in line with the memo, and normally
19 that's done as you'd described. PIRC are aware of the
20 discharge of CS, because they're now leading the
21 investigation. There are also internal reasons,
22 organisationally, health and safety, training
23 department, in terms of how we use force and
24 an assessment of that, which is also triggered by the
25 form. So the form should be submitted.

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1 What I'm suggesting is that the legal requirement to
2 send that to PIRC, PIRC are already leading the enquiry
3 and therefore know that the CS has been discharged and
4 that would be part of that enquiry.

5 Q. So you're not suggesting that because PIRC were leading
6 the enquiry that there would be no requirement to
7 complete the use of spray form, just that it may not
8 require to be sent to PIRC? Is that what you're
9 suggesting?

10 A. What I'm saying -- I need to just rewind slightly. So
11 what I'm saying is that as the post-incident manager, it
12 wasn't my responsibility to fill in that form. The
13 officers did not have access to computers and therefore
14 couldn't fill in the form. And my understanding in
15 terms of the legal advice that had been given was it
16 wasn't appropriate for them to fill in that form,
17 because essentially, they're then giving an initial
18 account of what's happened in the summary of that form.

19 I recognise the legal requirement of notifying PIRC
20 in the timescale that you indicated and PIRC were
21 obviously aware of the discharge of CS well within the
22 timescale that you've indicated. There are also
23 internal reasons why we would want that form submitted
24 in due time in terms of the training, the wider impact,
25 and that can be done at an appropriate time in that

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1 timeline.

2 So these are quite unique circumstances where we're
3 discussing -- so, in business as usual, I fully accept
4 this is an easy straightforward process. In the
5 circumstances we were facing on the 25th, it is
6 complicated by a number of factors.

7 Q. All right.

8 LORD BRACADALE: Just picking up on that, from my point of
9 view, why can the PIM process not accommodate the
10 completion of forms process?

11 A. So it doesn't accommodate it, it didn't accommodate it
12 in 2015, and from recollection of how it's laid out
13 today, it still doesn't necessarily accommodate the
14 further administrative requirements.

15 So once officers -- now, there are other -- there
16 are other avenues for the completion of that form. So,
17 for example, it could be submitted on behalf of -- so
18 line management could submit the use of force form to
19 comply with that timescale or equally to allow the
20 officers to focus on the other parts of the
21 post-incident process.

22 My experience of the post-incident process is that
23 the officers will come from the incident into that PIM
24 suite, will go through the process, which might include
25 the handing over of clothing, it is likely to include

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1 the provision of those personal initial accounts. And
2 at that stage, in line with the process, at that stage,
3 normally -- they're normally then allowed to go home and
4 come back in, and then the subsequent duties are
5 arranged.

6 So ... so it's a -- it's a focus around the
7 priorities of the investigation and the priorities of
8 their welfare, rather than completing all those other
9 administrative tasks that in any case can probably be
10 picked up either through line management or in the
11 following day.

12 LORD BRACADALE: Thank you.

13 A. Thank you, sir.

14 MS GRAHAME: We don't have the memo on the list for display
15 today. For those listening, it's PS11500. We've looked
16 at this before. And it does appear to say:

17 "From 1 April 2013, there is a legal requirement for
18 the police service to ensure compliance with the
19 provisions and that on every occasion where CS
20 incapacitant spray is discharged operationally, there is
21 a legal requirement to record the incident and report
22 onwards to PIRC within 24 hours."

23 So it may be that it's not simply letting PIRC know
24 that there is a legal requirement to record the
25 incident, and the way and the means that that is

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1 recorded is through what's a form, a particular form,
2 that we've also heard evidence about, a form emailed to
3 officer safety training, CS spray discharge.

4 So it would appear that -- can I ask you another
5 question: how were you aware that there was legal advice
6 not to complete forms as opposed to provide statements?

7 A. So the discussion around forms that we're having did not
8 take place on the day in question, did not take place in
9 the PIM suite, so there was -- that level of discussion
10 around the completion of forms did not take place.

11 Q. So was the discussion and the discussion about legal
12 advice exclusively in relation to providing statements?

13 A. Yes.

14 Q. Can I ask you some questions about Amanda Givan's
15 evidence?

16 A. Yeah.

17 Q. I'll read out a passage, and just ask you to comment on
18 whether you agree with this evidence. This is
19 Amanda Givan giving evidence on Day 18 of the Inquiry on
20 14 June last year:

21 "Answer: So the advice that I gave to the
22 officers: was at some point someone who is investigating
23 may come along and ask you for a statement. What you
24 should be enquiring is what your status is, am
25 I a witness or am I a suspect? If you're a suspect then

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1 you probably want to seek some legal advice before you
2 do that because they really shouldn't be asking you for
3 a statement if you're a suspect, and if they confirm
4 that you're a witness, then -- I suppose -- we never got
5 to that part but the next part might have been: are we
6 doing that today? Is today the best day for that to be
7 done given what had gone on earlier? But yes, it was as
8 straightforward as that, of going: if you're asked for
9 a statement, you should be asking -- because they will
10 not ask me for that, I wasn't there, you should be
11 ascertaining whether you're a witness or a suspect."

12 That was Amanda Givan's evidence about the advice
13 she gave to the officers in the canteen. Do you
14 remember Amanda Givan giving that advice to officers?

15 A. Not -- not in that level of detail, no.

16 Q. Having heard that passage of evidence, does that accord
17 with your understanding of what Amanda Givan told the
18 officers?

19 A. So, there's two -- there's probably -- there's at least
20 two aspects to that. So the first aspect is in relation
21 to the suspects and witnesses bit. So we covered this
22 yesterday. So, in my view, as a post-incident manager,
23 if someone had been identified to me as a suspect, then
24 it's not appropriate for them to continue in the
25 post-incident suite. So that's my position on it, and

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1 Amanda may have a different perspective on it, but
2 that's my position on it.

3 In relation to the access to legal advice, again, as
4 I covered yesterday, because it's a Federation lawyer,
5 it is typically the Federation representative who
6 secures that legal advice, either that can be
7 face-to-face and/or over the phone. On this occasion,
8 my understanding was it was going to be over the phone
9 and the officers would leave the PIM suite, go into the
10 corridor/room immediately adjacent and receive that
11 legal advice.

12 I didn't interfere with that process, nor did
13 I check what was actually happening when the officer
14 left the room, and so any conversation that took place
15 with the officer in that circumstance, I wasn't --
16 I wasn't aware of. I was allowing them to receive their
17 legal advice outwith the hearing of both other officers
18 and myself as the post-incident manager.

19 So if that -- if Amanda's saying that that's what
20 the officers were -- either she told them or ... then
21 that's what happened. I wasn't there at that particular
22 point in time, so I can't confirm or deny that that's
23 what was said.

24 Q. And you didn't check what was happening in the other
25 room; do you even know if they were speaking to lawyers?

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1 I say this, because we didn't hear anything from
2 Amanda Givan in evidence that she had arranged for them
3 to speak to lawyers and seek legal advice from the
4 canteen.

5 A. So what I expected to be happening was that the officers
6 were being taken from the PIM suite into that side room
7 and that there was access to the legal advice being
8 provided. Because there wasn't an individual there, my
9 assumption was it was taking place over the phone.

10 Q. Right. But that was your understanding of what was
11 happening?

12 A. That's right.

13 Q. Not having heard that from Amanda Givan, could you be
14 mistaken that that occurred? You've not noted in the
15 PIM log or ...

16 A. Absolutely, that is my -- that's my belief of what was
17 happening, but I didn't witness it happening, so indeed
18 anything else could have happened.

19 Q. Amanda Givan also commented that the officers on the day
20 did not have clarification of their status, whether they
21 were witnesses or whether they were suspects. Can you
22 comment on that?

23 A. So, I can. I ... I think I've -- so when -- the notes
24 I made around the SIO speaking to the officers --

25 Q. Is this the PIM log?

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1 A. Yeah, at 13.41.

2 Q. At 13.41.

3 A. Yeah, so --

4 Q. Is that page 14?

5 A. Sorry, yes, page 14, 13.41, when Detective

6 Superintendent Pat Campbell spoke to the officers, one

7 of the things that he said to them was that there was no

8 suspicion on any of the officers.

9 Q. And we see that on the screen now.

10 A. Yeah. And so, for me, it was quite clear that they were

11 witnesses, and indeed that aligns to the discussion we

12 had around witnesses are rightly in the post-incident

13 process, suspects aren't rightly in the post-incident

14 process. And I think it was clear to me and it was

15 briefed to the officers. I would also understand if the

16 officers, because of pressures that they were under and

17 the impact of the incident on them, that may not have,

18 you know, landed, that verbal briefing may not have

19 landed and been computed by them. That's understandable

20 in the circumstances they were in. But it was clear to

21 me and to the SIO at the time.

22 Q. Could we move on to return to the PIP SOP, please.

23 PS10934. If we could -- just before we begin looking at

24 some details, you mentioned yesterday about the

25 importance of you being independent from the SIO, and

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1 I think you made specific mention of that when we were
2 going through the introductory parts. If the SIO says,
3 as you've noted in your PIM log, that there's to be no
4 statements, no operational statements taken, is there
5 anything in the PIP SOP that says that in itself is to
6 prevent any initial personal accounts being taken, or
7 detailed accounts in due course?

8 A. Sorry, could you just repeat the question?

9 Q. You mentioned yesterday about the importance of you
10 being independent.

11 A. Yeah.

12 Q. So regardless of whether or not the SIO says, "I don't
13 want any statements for the investigation" --

14 A. Yes.

15 Q. -- irrespective of that, does it not remain your
16 obligation to continue with PIP procedures?

17 A. So, yes. My responsibility is to -- to put in place the
18 post-incident procedure, which includes the obtaining of
19 personal initial accounts. Now, it's understood by both
20 the investigation side and the post-incident management
21 side what that looks like and entails. 2015, I made
22 some assumptions about the language that was being used
23 and what was understood by that and what it entailed.

24 If -- I could have continued -- so there's two
25 aspects of the personal initial accounts, as we

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1 discussed yesterday. There's both the SIO opinion on
2 it, if that was an opinion about personal initial
3 accounts or operational statements, stage 4 accounts.
4 So there was the view of the SIO around that. And there
5 was also the legal advice not to provide a statement,
6 which clearly is in the procedure around "subject to
7 medical and legal advice".

8 So if I -- so even if I discount everything that the
9 SIO says to me, I'm then left with personal initial
10 accounts, subject to medical and legal advice, and the
11 legal advice was not to provide a statement, a written
12 account, and therefore it wouldn't have been appropriate
13 to have provided a personal initial account.

14 Is it my role to try and obtain that? Yes, it's
15 also my role to make sure that the process is followed,
16 which includes the medical and legal advice. And we
17 discussed some of that detail yesterday.

18 Q. Again, we talked about not speaking the same language --

19 A. Yes.

20 Q. -- as Campbell, and you've again discussed his comments
21 and his use of the words "statements" and "operational
22 statements", which you noted, and looking at the PIP SOP
23 talking about personal initial accounts and then the
24 more detailed --

25 A. Yeah.

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1 Q. -- statements. At any point when, as you've noted in
2 your PIM log, Campbell said, "No statements are
3 required" or "no operational statements are required",
4 did you probe or question him in relation to whether he
5 would still look for initial personal accounts? Because
6 you wouldn't be expecting detailed statements that day
7 anyway.

8 A. As, again, we discussed yesterday, when I spoke to
9 Detective Super Campbell, I had my PIM folder with me,
10 which included the SOP, which included the initial
11 account -- the reference to initial accounts and
12 detailed accounts. So when we were having that
13 conversation about statements, I was referring to
14 initial accounts and detailed accounts.

15 Now, I can't recall the exact language that I had.
16 How much we dug into it, not enough to get the clarity
17 that we are seeking here today. So that is -- and
18 again, if we refer back to the lessons learned, this is
19 the key lesson learned, is that the investigative side
20 did not have the full appreciation of post-incident
21 procedures, the wider organisation did not have the
22 understanding of post-incident procedures, and I was
23 trying to implement a procedure that I knew about and
24 had been trained on and experienced on, and trying to do
25 that in a live dynamic situation where there are lots of

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1 pressures and time pressures and, et cetera, on all the
2 individuals involved. And therefore, yes, you can push
3 into that space in terms of initial account, full
4 account, but only within a very limited timeframe of the
5 other pressures of the individuals.

6 But this is the key learning for this aspect,
7 I absolutely accept that, that this would look so, so
8 different now than it did in 2015. I fully acknowledge
9 that, that that learning has taken place, but it wasn't
10 in place in 2015.

11 Q. Does this go back to what you said earlier about you
12 could not in that environment educate everybody about
13 PIP?

14 A. Well, and even the SIO, and reference to what a crucial
15 challenging role the SIO role is, and the short
16 interactions I was able to have with him, because of all
17 the other pressures that he was under in terms of
18 Gold Groups and PIRC and briefing sectors and so on.

19 So yeah, it's a very time pressured environment, and
20 therefore, you make assumptions about the level of
21 knowledge that people have around different bits of the
22 procedure.

23 Q. Can I ask you to look at section 8.15 of the SOP, and
24 this is a section which says:

25 "The basic facts should be confirmed with the person

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1 providing them to certify accuracy and be timed and
2 dated by the PIM. The original should be handed to the
3 IIO whilst the PIM and the person providing should
4 retain a copy."

5 You explained yesterday that the IIO is the same as
6 the SIO and it would be Campbell.

7 Just pausing for a moment and thinking about that
8 aspect, is that an obligation on you, as PIM, to obtain
9 the basic facts and provide them and certify them for
10 accuracy?

11 A. Yes, that's the role and responsibility of the
12 post-incident manager.

13 Q. And then that the original should be handed to
14 effectively the IIO by you?

15 A. Yes.

16 Q. When you arrived at Kirkcaldy Police Office, you've
17 described to us arriving at 11 and the first meet and
18 greet at half past, why did you not seek out the SIO
19 Campbell until he came to meet you at the PIM suite at
20 13.40?

21 A. Erm ... so I was -- I was taking other parts of the PIM
22 process, I was conducting other parts of the PIM
23 process, and the natural place to speak to the SIO is
24 after I've initiated the post-incident process. Could
25 it have been sooner? Probably. Was he also very busy

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1 in other aspects of his duties? Yes. Was I also busy
2 with the meet and greet and some of the smaller sort of
3 intermediary stuff that was going on? Yes. And
4 therefore, the first opportunity we had to get together
5 was at the time we did.

6 Q. And did you hand the basic -- hand a document to
7 Campbell at some point which contained the basic facts?

8 A. No. So we spoke about the basic facts yesterday, and my
9 decision as the post-incident manager, there was no need
10 to provide basic facts, because the information that we
11 had at the time -- and indeed now seeing the handwritten
12 notes I made at 9.30 in the morning, if I'd written that
13 in full sentences, that covers the sort of levels of
14 information that are contained within PIM basic facts
15 and for me to have written that, signed and dated it,
16 several hours later when that information was widely
17 known to the management and the investigation at that
18 point.

19 As I said yesterday, in my view, we were beyond PIM
20 basic facts, there was a greater level of knowledge than
21 would have been achieved by PIM basic facts and
22 therefore I didn't carry out that particular part of the
23 process.

24 Q. And again, we touched on this yesterday in relation to
25 accuracy, looking back now, what ways could you, as PIM,

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1 have certified accuracy of the basic facts, as it says
2 in 8.15?

3 A. Yeah, so ... so we shouldn't read that paragraph in
4 isolation of the other bits of this SOP. So we spoke
5 yesterday about the best way to obtain basic facts, or
6 the preferred way is not to obtain it from the principal
7 officers, the officers that had been directly involved.
8 The SOP in front of us references the OFC, but we spoke
9 yesterday about that, in this situation, it would
10 probably be the sergeant, and in my experience of other
11 post-incident procedures, that's typically -- it's the
12 first line manager often would sit with the
13 post-incident manager and just -- and go through those
14 basic facts.

15 So, if we speculate that I had done it, that is
16 a likely course of action I would have taken, and
17 therefore, we would have -- the certified as factual
18 accuracy is about -- so that's not me checking that the
19 individuals are -- what they're telling me. That's --
20 because I'm not part of the investigation. That's the
21 investigation's responsibility to -- again, as we spoke
22 about yesterday, the further the investigation goes, the
23 more accurate the knowledge of what happened at the
24 incident is.

25 So I would have obtained that information from

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1 either the sergeant and or (a) another person who was
2 there who was deemed to be more appropriate, and it
3 would have been their -- again, it's not their
4 individual account of what's happened, it's a summary of
5 what's happened, and we would have agreed that as "Is
6 this what happened?" "Yes, that's what happened".
7 Actually, I would have verbalised that with the
8 officers, "Is that what happened?" "Yes, that's what
9 happened", time, date.

10 Q. Assuming that had been done, does that assume that the
11 sergeant would have accurate information also?

12 A. So therein lies the -- so PIM basic facts -- so the
13 purpose of PIM basic facts is to initiate the
14 investigation stage. So this is an incident has
15 happened, sit rep reports have gone through radio
16 systems and verbal briefings, so we know from a sit rep
17 position what has happened, but there's a crucial
18 missing piece that means the investigation cannot
19 initiate. So PIM basic facts would cover that detail
20 off.

21 We have that detail in the initial briefing that
22 I was given. So it's not -- the PIM basic facts is to
23 allow the IIO, the SIO, to initiate their investigative
24 approach. That investigative approach was well and
25 truly initiated and under way, and so the purpose of PIM

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1 basic facts is not applicable in the incident that we
2 were facing. And that's why I didn't spend that time
3 and focus on completing them, because it wasn't
4 necessary in the circumstances.

5 Q. So by the time you became involved as PIM, we may hear
6 evidence and we have heard some evidence from Robson,
7 that the basic facts, if I can call that in
8 a non-specific way --

9 A. Yeah, yeah, yeah.

10 Q. -- had been shared already with Campbell at that point?

11 A. And that, without me knowing that, that kind of
12 illustrates the point I'm trying to make, is that if --
13 so this event took place on a public street with
14 witnesses, with CCTV, with officers that had already
15 briefed him what they had done. The reason for PIM
16 basic facts is that in a firearms incident -- if the
17 only people that are there are firearms officers -- I
18 mean, it doesn't need to be firearms, but the only
19 officers are there, firearms officers, in isolation, so
20 maybe inside a building, for example, and there is
21 no one that can tell us what happened other than those
22 officers that were there. So therefore, the
23 investigation cannot start, because it doesn't know
24 where to start, then PIM basic facts would trigger that
25 and allow that to happen. We knew that, and the

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1 investigation was actually in -- you know, ramping up
2 and in full flow in terms of the activities that needed
3 to take place.

4 Q. And that was in flow by the time you arrived at
5 Kirkcaldy at 11 o'clock?

6 A. Absolutely. I don't want to confuse things, but it is
7 worth pointing out that appendix N about the provision
8 of accounts, the legal advice is applicable to stage 2
9 PIM basic facts as well as stage 3 and stage 4. So
10 whilst that wasn't a consideration on the day, and it
11 didn't influence my decision around it, it is worth the
12 Inquiry being aware that the SOP does -- that stages 2,
13 3 and 4 are all subject to legal advice.

14 So that potentially could have created issues if
15 indeed we'd needed to and I had gone down that path.
16 Like I say, I don't want to complicate it, because that
17 isn't where we were, but it is worth knowing that in the
18 fullness of the SOP, that is what it says.

19 Q. I think we did look at appendix N yesterday.

20 A. Yes, we did.

21 Q. Maybe we could go back to that just briefly. I think
22 the section you were referring to was in the
23 introductory paragraphs of appendix N.

24 A. I think so, yes.

25 Q. I don't have a note of the number, we just have to go

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1 down.

2 A. It's page 34.

3 Q. Right, thank you very much.

4 A. And it's -- yeah, it's the second sentence down, it
5 says:

6 "Providing stages 2 to 4 (inclusive) ..."

7 Q. "... officers should be in a position to obtain legal or
8 medical advice prior to providing 2, 3 or 4."

9 And basic facts are stage 2?

10 A. That's right.

11 Q. Can I ask if we could look at section 14, please, which
12 is up the page. In particular, 14.5:

13 "Drug and alcohol testing and forensic elimination
14 samples (DNA)."

15 And if we can look at 14.5.2 and 3, if we could have
16 those on the screen, it talks there about:

17 "The rationale for considering taking DNA samples
18 from Principal Officers could be in order to obtain
19 elimination samples."

20 It said that will be considered on a case-by-case
21 basis:

22 "An incident may reveal that fibre transfer or
23 footwear marks etc are crucial to the investigation and
24 will help to provide a truthful and accurate account of
25 what happened. All requests should be relevant, borne

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1 out of a sound rationale, documented and subject to
2 legal advice where appropriate."

3 We have heard evidence that there weren't DNA
4 samples taken from the officers; there were some taken
5 from witnesses. We've also heard that there's never any
6 need to take DNA from officers because it's all on
7 a database.

8 Could you explain why this particular SOP talks
9 about a scenario where DNA samples are taken possibly
10 from officers, if that's never necessary?

11 A. I can't really provide a good explanation for that, to
12 be honest. That's in this SOP and I think that will
13 also be in the Authorised Professional Practice Armed
14 Policing. But obviously you've heard that all of our
15 DNA is stored, so that would negate the purpose of that,
16 unless there's some other investigatory reason that it
17 would be more appropriate for an SIO to -- you might get
18 a better answer from an investigator professional as
19 opposed to myself.

20 Q. Was there any discussion with you about facilitating
21 taking samples from officers?

22 A. There wasn't.

23 Q. Can I ask you to look at section 3.4, finally. I think
24 we did talk about section 3 yesterday, but one of the
25 things I didn't ask you was -- so 3.4, you talk about --

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1 sorry:

2 "An early decision should be made on which officers

3 will be considered Principal Officers ..."

4 We spoke about that yesterday and about Davidson and

5 Connell not being included:

6 " ... by the PIM in conjunction with the strategic

7 PIP commander, the TFC and the IIO."

8 Now, you talked about TFC yesterday and the IIO.

9 What about the strategic PIP commander? Who would that

10 be?

11 A. So that would be, in this circumstance, ACC Nicholson

12 would be fulfilling that role.

13 Q. Thank you. Can we move back to your PIM log, please,

14 and that's PS00387. I'm interested in moving on to

15 Monday 4 May, which is page 17 of the log. You will see

16 here that you are describing a telephone call at 11.15

17 in the morning.

18 A. That's right.

19 Q. You remained PIM the following day?

20 A. (Witness nods).

21 Q. And you say:

22 "Telephone call for update. [Chief Inspector]

23 Nicola Shepherd, Area Command. Phoning ..."

24 And then could you read the rest of that, please.

25 A. So that says:

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1 "Phoning round officers at moment for welfare
2 check/see plans for day."

3 Q. Then:

4 "ACC decision not operational for remainder of
5 week."

6 A. Yes, so --

7 Q. So the officers were not to effectively come back to
8 duties?

9 A. Yeah, not to come back to normal duties, you know, to
10 staff up a patrol car and so on. They may well be back
11 on duty but for the purposes of any post-incident
12 sort of management.

13 Q. And then in the last entry there, it says:

14 "No contact today from PIRC."

15 So again, did you have no contact from PIRC on
16 4 May?

17 A. That's right.

18 Q. It's written after the 11.15 telephone call. Can you
19 explain what that meant, "No contact from PIRC"?

20 A. So, as I read that, I'm not sure if that's me writing
21 that, it looks to me like that's actually part of the
22 update with Nicola Shepherd, that there has been no
23 contact from PIRC. So I'm not sure if she's verbalised
24 that rather than that's me just verbalising it in terms
25 of "PIRC haven't contacted me today".

Transcript of the Sheku Bayoh Inquiry

1 Q. All right. Then 1300:

2 "Discussion with [Superintendent] McKenzie regarding
3 provision of statements."

4 Was that part of -- was that still being discussed
5 the following day?

6 A. Yeah. So the role of the post-incident manager, as we
7 know from the SOP, is to continue right through to those
8 stage 4 accounts, which should be done after the 48-hour
9 period. So that's why I'm still engaging with them to
10 try and get updates in relation to the officers. Now,
11 some of the -- more the welfare side was really -- in
12 fact both sides, so the welfare side was primarily
13 starting to be driven by the line management, and we
14 discussed earlier this morning about the welfare
15 strategy and so on, and what was being put in place from
16 a welfare point of view.

17 The discussion around the provision of the detailed
18 statements, the stage 4 accounts, and that discussion
19 was -- was almost, I was going to say being taken away
20 from me, that sounds like it was an active thing, but
21 was happening elsewhere.

22 So the investigation side, as in the police
23 investigation side and PIRC, they were obviously engaged
24 in those discussions and the Police Federation were also
25 taking a role in engaging with the investigation side

Transcript of the Sheku Bayoh Inquiry

1 around those discussions.

2 So the role of PIM, as it's documented in the SOP,
3 was kind of being circumvented -- again, doesn't sound
4 like the right word, but there is another process that
5 was being put in place. So those discussions were
6 happening directly and outwith my -- me being part of
7 those discussions.

8 So when I -- actually, the next couple of days of
9 updates, it's generally me actually obtaining an update
10 from people about where we are with that in an effort
11 to, well, (a) be helpful and (b), you know, be part of
12 it in line with the post-incident process.

13 Actually, those -- the responsibility for provision
14 of that statement moved away from me over the next
15 couple of days and became a conversation with the
16 investigation side and the Federation on behalf of the
17 officers. And so that was outwith my direct
18 involvement.

19 Q. Did you have any direct involvement in the discussions
20 going on between SPF and the investigative side?

21 A. No, so -- so the sort of 1300 update, there is,
22 I suppose, a direct conversation that I was involved in
23 there, as you can see from my note. But as the -- well,
24 there's no further notes on this day, and as the log
25 goes on, it's then me really obtaining updates on where

Transcript of the Sheku Bayoh Inquiry

1 that is, as opposed to any direct conversations I'm
2 having either with the investigation side or
3 the Federation.

4 Q. I'd like to move on to the next few lines and it starts
5 with "advise officers on cause of death?"

6 Now, it's just, if we can move up the page slightly,
7 yes, just it looks like there's two entries for 13, but
8 it might be 1500, is it?

9 A. Yeah, I think that second one is 15, that's my writing,
10 I'm afraid.

11 Q. 1500 and it says there:

12 "Advise officers on cause of death? (Update from
13 Nicky Shepherd). Discussion."

14 Then we move on to Tuesday 5 May.

15 A. Yeah.

16 Q. But thinking just, first of all, about Monday 4 May and
17 this discussion about advising officers about cause of
18 death, I think you were asked about this in your Inquiry
19 statement.

20 A. Yes, I was, yeah.

21 Q. So events occurred between 4 and 5 May.

22 For your own benefit, this is dealt with at
23 paragraphs 254 to 256 of your Inquiry statement.

24 I think for the moment --

25 A. Yeah.

Transcript of the Sheku Bayoh Inquiry

1 Q. -- we'll just stick with the PIM log on the screen.

2 A. Sure.

3 Q. But you have your Inquiry statement in front of you.

4 A. Yeah.

5 Q. So it was 254 to 256. I'm interested in this

6 question -- sorry, have you got to it?

7 A. Yes, I've got 254, thank you.

8 Q. I'm interested in this question that you put in your log

9 about advising officers on cause of death. Can you

10 briefly explain to the Chair what was happening at that

11 time?

12 A. So, certainly, and I think the update from

13 Nicky Shepherd is relevant in the sense that this is

14 a second conversation that I'm having with Nicky.

15 Q. Let's look at that as well, then. It's Tuesday 5 May,

16 it's at the bottom of page 17.

17 A. No, sorry, just that, the 1500 one --

18 Q. Oh, no. Yes.

19 A. Where I've said:

20 "Advise officers on cause of death?"

21 I've put in brackets after that:

22 "(Update from Nicky Shepherd)."

23 So Nicky and I are, we've spoken in the morning and

24 this is us speaking again in the afternoon. Again, I'm

25 not going to say I've been directly involved in this,

Transcript of the Sheku Bayoh Inquiry

1 but the discussion was that, as we understood it, the
2 legal advice was to not provide a statement because we
3 can't confirm what your status is, we won't be able to
4 confirm your status until the cause of death is known.
5 Hence, the importance of the cause of death in relation
6 to -- from a post-incident point of view, that would be
7 a trigger and for the legal advice and the officers
8 there to provide a statement. That's the kind of
9 linkage between those bits of the jigsaw.

10 Q. So the officers wanted to know what cause of death was
11 and then the legal advice would be, once they know what
12 cause -- depending on the outcome of that --

13 A. Yes.

14 Q. -- their status could be confirmed, the officers could
15 have more confidence, and there would be a move in terms
16 of being willing to provide statements.

17 A. So that is as I understand it. So this is now not my
18 direct -- I'm not directly involved in these
19 conversation with the officers, and I'm not directly
20 involved in these conversations with the investigation
21 team. So this is --

22 Q. So who told you that that was --

23 A. So this is my discussion with Nicky Shepherd as the area
24 commander, so I'm assuming she was getting
25 an investigative feed into that in line with her line

Transcript of the Sheku Bayoh Inquiry

1 management role.

2 Q. So it was Nicky Shepherd who shared that information
3 with you --

4 A. Yes.

5 Q. -- on the phone?

6 And then we come on to Tuesday 5 May. It says:

7 "2 voicemails left for Nicky Shepherd for update.
8 Spoke with Jane Combe."

9 And then it's "(AM/PM)".

10 A. So morning and afternoon.

11 Q. "She updated me that cause of death was ..."

12 And if we can move on to page 18:

13 "... advised last night pending toxicology and did
14 not result from blunt trauma. Officers had been told
15 last night.

16 Told Jane I would be in Kirkcaldy following day as
17 required."

18 So we've heard evidence that the post-mortem took
19 place on 4 May, that would be the Monday, and this
20 appears to suggest that you were told that the officers
21 had been advised "last night", so that would be Tuesday
22 5 May, your entry in your PIM log, so they would be told
23 on Monday 4 May:

24 "... pending toxicology and did not result from
25 blunt trauma."

Transcript of the Sheku Bayoh Inquiry

1 So the post-mortem takes place on the Monday --

2 A. Yeah.

3 Q. -- 4 May. The officers are told that night --

4 A. That night.

5 Q. -- what the cause of death was, and you were then
6 advised on Tuesday 5 May by Jane Combe --

7 A. Yeah.

8 Q. -- or Nicky Shepherd.

9 A. Jane, I think.

10 Q. Jane.

11 Can you explain what involvement you had as PIM in
12 relation to this discussion about whether or not to tell
13 the officers about cause of death?

14 A. Yeah. I had no part in that discussion.

15 Q. Was the first you heard of it when you had that
16 conversation with Jane Combe on Tuesday 5 May?

17 A. So there was the discussion in the Monday afternoon
18 around -- so it's "Advise officers on cause of death?"
19 and discussion, so there's obviously a conversation
20 between myself and Nicky about that, but we're not the
21 decision-maker in terms of the officers being advised
22 about the cause of death.

23 And then the following morning, and then receiving
24 the update that someone has made that decision and
25 indeed the officers have been told.

Transcript of the Sheku Bayoh Inquiry

1 Q. Right. What did you say to Nicky Shepherd during your
2 discussion with her on 4 May about telling police
3 officers about the cause of death?

4 A. I don't recall the detail of the discussion. What I'm
5 aware of and therefore what the likely discussion was,
6 was around the legal advice, the relation the legal
7 advice had to the cause of death, the status of the
8 officers, and in turn that linkage to the provision of
9 statements. So that would have been the level of
10 discussion that will have taken place.

11 Q. Were you asked about your opinion on telling officers
12 about the cause of death?

13 A. So this is a conversation between two chief inspectors
14 in the police, so we would have had a discussion about
15 the pros and cons of doing that.

16 Q. What was your input? What was your view about the pros
17 and cons?

18 A. I could understand why that might assist the provision
19 of statements.

20 Q. By removing the hurdle?

21 A. Indeed.

22 Q. What would the cons be?

23 A. Well, depends -- because, at this point, I didn't know
24 what the cause of death was. So, of course, if the
25 cause of death was different, and the officers' status

Transcript of the Sheku Bayoh Inquiry

- 1 changed, then you're in a different position.
- 2 Q. But we're talking about the benefits of telling them
3 would be that maybe perhaps that would aid the obtaining
4 of statements, which would assist the investigation,
5 potentially.
- 6 A. Yeah, absolutely.
- 7 Q. What would the disadvantages of telling the officers
8 about the cause of death be? You've talked about the --
- 9 A. Yeah.
- 10 Q. -- advantage of getting statements, which you've not got
11 then, and the investigation would like. What are the
12 disadvantages that was part of the discussion?
- 13 A. So I don't recall us discussing disadvantages of that.
- 14 Q. Can you think of any now?
- 15 A. Not really.
- 16 Q. Were you concerned at all about the impact on the
17 officers' accounts, knowing what the cause of death was?
- 18 A. That wasn't part of the discussion.
- 19 Q. You do remember the discussion, then?
- 20 A. So --
- 21 Q. I thought -- sorry, I thought you said you didn't
22 remember the discussion.
- 23 A. So I remember that we didn't talk in that detail about
24 the pros and cons.
- 25 Q. Right.

Transcript of the Sheku Bayoh Inquiry

1 A. Because this isn't a discussion that's leading to
2 a decision. This is two chief inspectors, who are
3 involved on the periphery of this, having a conversation
4 about where we are with it.

5 Q. Whose decision would this have been, as far as you'd
6 remember?

7 A. I don't know who made the decision, I wasn't involved in
8 the discussion or the decision.

9 Q. How common is it, in your experience, to tell witnesses
10 about the cause of death?

11 A. Police witnesses?

12 Q. Witnesses.

13 A. Police witnesses involved in a death enquiry would
14 normally know the cause of death.

15 Q. Not before the post-mortem, or are you saying they would
16 know before the post-mortem?

17 A. Sorry, the --

18 Q. How would the police witnesses normally know the cause
19 of death after the post-mortem?

20 A. Police witnesses that were involved in the incident
21 would know what the cause of death was by part of that
22 investigation. These circumstances and what normally
23 happens are not very comparable, in my opinion.

24 Q. Right.

25 A. We're in quite a unique set of circumstances here.

Transcript of the Sheku Bayoh Inquiry

1 Q. So in the circumstances here, where the police have been
2 involved in a restraint where the man died, in your
3 experience, would they normally -- would the
4 investigation side normally share the cause of death
5 with those officers?

6 A. I don't think I'm the best person to help with this.
7 I think that the people that have been involved in the
8 discussion, were involved in the investigation and made
9 the decisions could answer that question. I wasn't part
10 of any of those pieces of the discussion.

11 Q. All right.

12 A. In terms of my experience -- so in terms of my
13 experience since this incident, as I said yesterday as
14 well, is that actually because of that maturity around
15 organisations, the provision of personal initial
16 accounts and the subsequent provision of detailed
17 accounts 48 hours' later is the normal situation that we
18 find ourselves in as an organisation.

19 So that process, that post-incident process, as per
20 the SOP, based on receiving legal advice that, yes,
21 you know, "Continue to provide your personal initial
22 account and your stage 4 account", that is normally what
23 happens in post-incident procedures in 2023.

24 So my experience since this incident is that we
25 haven't been faced with these challenging circumstances

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1 since, in my lived experience. It might have happened
2 elsewhere. And beforehand, my experience in terms of
3 post-incident management was that we did provide
4 detailed accounts in line with the SOP.

5 So my experiences both before and after this
6 incident was that the provision of accounts was there.
7 Hence why I'm saying this felt a very unique set of
8 circumstances in relation to trying to go through
9 a process, but quite rightly part of the process is that
10 legal advice and the legal advice, you know, caused
11 problems with that process being followed through.

12 Q. So in terms of your own personal experience, is this the
13 only situation you have been in, in your career, where
14 officers have declined to give accounts, initial
15 personal accounts or operational statements, or whatever
16 you want to call them, they've declined to give those on
17 the basis of legal advice, but they have then been
18 provided with information about the cause of death after
19 the post-mortem?

20 A. That -- I don't have a recollection of another set of
21 circumstances that aligns itself to what you've just
22 described.

23 Q. So your personal experience is that that has not
24 happened in any other situation that you've personally
25 been involved in?

Transcript of the Sheku Bayoh Inquiry

- 1 A. In my personal experience. It may well have that I'm
2 not aware of.
- 3 Q. And you're not sure of who the decision-maker would be.
4 Have you any views on what the rank of officer would be
5 that would be involved in making a decision like this?
- 6 A. My understanding is that the investigative side of this
7 incident were involved in that discussion and
8 decision-making, including PIRC. I don't know who or at
9 what time or -- made that decision. I ...
- 10 Q. When you say "the investigative side", we've been
11 talking about Pat Campbell as the SIO, is that the
12 sort of side that you're talking about?
- 13 A. So I wouldn't want to personalise it to Pat Campbell,
14 because I know that at some point, I'm not sure if it
15 was on the Monday, but at some point, he handed over his
16 SIO responsibilities to PIRC. So -- and I can't
17 remember if that is on the Monday or beyond. And that's
18 based on my knowledge of the Inquiry, not based on my
19 knowledge at the time, but I'm aware that there was
20 a handover between the SIO and the PIRC, so --
- 21 Q. We've not heard evidence yet from Campbell.
- 22 A. No, I appreciate that.
- 23 Q. We've not heard evidence yet from officers from PIRC.
- 24 A. So they will be in a far better place to answer that --
- 25 Q. We will hear more evidence about this. But that would

Transcript of the Sheku Bayoh Inquiry

1 be the side of --

2 A. Yes.

3 Q. -- things that would be involved in making that

4 decision?

5 A. Yeah.

6 Q. You've noted that, in your log, the cause of death was

7 pending toxicology and did not result from blunt trauma.

8 I'm interested in whether you have any recollection

9 about why you noted it did not involve blunt trauma or

10 blunt force trauma?

11 A. That was the terminology that was used from Jane to

12 myself.

13 Q. Why was it particularly noted that it wasn't because of

14 blunt trauma? Was that something relevant to your role

15 as PIM?

16 A. It's not relevant to my role as PIM.

17 Q. Right. So why was it noted that it wasn't blunt trauma?

18 A. I think that's a question for the investigation side as

19 well.

20 Q. Right.

21 A. Because it's in line with the -- so I'm aware that

22 a form of words were created by the investigation side

23 in relation to this provision of cause of death. That's

24 evidence, as you say, that you've yet to hear, but that

25 is within the evidence packs that were provided to the

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1 Inquiry, so ...

2 Q. We've heard evidence from PC Tomlinson that he struck
3 Mr Bayoh over the head on a number of occasions, and
4 body, with his baton and that when he returned to
5 Kirkcaldy Police Office, he was upset and concerned
6 about the impact of that. We've heard other evidence
7 about red zones and effectively the potential danger of
8 striking somebody to the head area. It can cause death.
9 And that was something that PC Tomlinson gave evidence
10 about last year, in May.

11 I wondered if noting in particular that it wasn't
12 blunt force trauma had something to do with, you know,
13 from a welfare perspective, with maybe sharing with
14 PC Tomlinson, he hadn't been to blame, which was causing
15 him upset. Do you remember anything about that at all?

16 A. That's not part of my discussion or decision-making.

17 Q. And nobody mentioned that as a possibility to you,
18 that --

19 A. No.

20 Q. -- Jane Combe never mentioned anything about Tomlinson
21 in particular?

22 A. No.

23 Q. Presumably if the cause of death had been something
24 along the lines of cardiopulmonary arrest due to
25 restraint and struggle against restraint, or positional

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1 asphyxia, or something along those lines, would that
2 have had an impact on your role as PIM in relation to
3 either the officers moving into the position of suspect
4 or from a welfare perspective?

5 A. So it would have an impact, as I said, in terms of
6 I wasn't involved directly with these discussions at the
7 time. And so I haven't -- I wasn't directly involved,
8 so ... but based on what you're saying, if the status of
9 the officer changes, so that again is an SIO
10 investigative side, if the cause of death indicates
11 a change of status of an officer or a number of
12 officers, then there's a change of status and therefore
13 they wouldn't be providing detailed accounts because
14 they then become a suspect in the enquiry and criminal
15 proceed -- criminal justice processes kick in, so
16 that --

17 Q. And you moved out of the post-incident procedure
18 process?

19 A. Yeah. Remember we're now talking two days after, so
20 they're not physically anywhere there, they're at home
21 or on duty in Kirkcaldy. So we're now just talking
22 about the management of those officers in terms of their
23 status in relation to the enquiry.

24 But in general terms if the cause of death was as
25 you are indicating, then clearly the investigation side

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1 need to consider the status of the officers at that
2 point and make appropriate decisions around that, which
3 again is an SIO led decision. Well, I say "SIO", and/or
4 at this point, it may well be a PIRC senior investigator
5 decision. I'm not aware of that timeline.

6 Q. One last question about this, because I'm conscious of
7 the time, was any part of this discussion that you had
8 with Jane Combe about the reputation of the police
9 service in light of the events at Hayfield Road?

10 A. No. No.

11 MS GRAHAME: I'll come back to this later. I'm conscious of
12 the time.

13 LORD BRACADALE: We'll take a 20-minute break at this point.
14 (11.33 am)

15 (A short break)

16 (11.53 am)

17 (Proceedings delayed)

18 (12.01 pm)

19 MS GRAHAME: Thank you.

20 You've talked to us about the conversation you had
21 about cause of death and your understanding that the
22 officers wanted to know about that before considering
23 giving statements.

24 After the officers had been told about cause of
25 death on 4 May, do you know why they didn't give

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1 statements until 4 June? We've heard evidence that they
2 gave statements to PIRC on 4 June.

3 A. Yeah.

4 Q. And we'll hear, no doubt, further evidence about that --

5 A. Yeah.

6 Q. -- and the requests that had been made by PIRC during
7 that period. But do you know why removing the hurdle,
8 you know, the --

9 A. Yeah.

10 Q. -- lack of information about cause of death didn't
11 actually result in statements being delivered within
12 that seven-day period?

13 A. No, I'm afraid I don't know why it took so long after
14 for that position to change.

15 Q. Okay. And do you know, was it part of any discussion
16 that you had about whether the family were told about
17 cause of death on 4 May?

18 A. I don't know if they were told or not on that date.

19 Q. Right. We may have heard evidence that they didn't
20 discover that the post-mortem had taken place and been
21 carried out until 5 May.

22 A. Right.

23 Q. Which would be the morning, as I understand it, on
24 the --

25 A. Tuesday.

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1 Q. Yes. After or during a meeting with their solicitor.
2 Were you aware of any discussions going on at the time
3 about telling the family about the cause of death?

4 A. No. That's an investigative discussion, decision.

5 Q. And that wouldn't come to you as part of your role of
6 PIM?

7 A. PIM, no, that's on the investigation side of the --

8 Q. Right.

9 A. -- of the incident.

10 Q. Could I go back to your PIM log, please, and just
11 complete our consideration of what you noted. I think
12 we're looking at 5 May now, so if we could turn to
13 page 18, this continues your involvement that day, and
14 you've talked about the phone call with Nicky Shepherd
15 at 19.45, with the results of cause of death. We've
16 talked about that.

17 If you could go on further down the page, and then
18 it says:

19 "Amanda Givan has arranged FAI briefing for tomorrow
20 [afternoon]. Agreed to attend Kirkcaldy tomorrow to
21 plan personal welfare strategies for each individual."

22 First of all, what's an FAI briefing?

23 A. So FAI, fatal accident inquiry. My recollection,
24 understanding, was that the officers were going to
25 receive a briefing from the Federation lawyer around

Transcript of the Sheku Bayoh Inquiry

1 FAIs and the process and what their part in that process
2 might be.

3 Q. And that had been arranged by Amanda Givan for the
4 afternoon?

5 A. Yeah.

6 Q. The next day. So that would be 6 May.

7 A. That's the 6th.

8 Q. Then you mentioned earlier in your evidence this morning
9 about the personal welfare strategy, and we talked
10 about --

11 A. Yeah.

12 Q. -- the document that we'd noticed at the end. Is that
13 the point at which you were planning personal welfare
14 strategies?

15 A. Yeah.

16 Q. Then moving on to 6 May, it says:

17 "Welfare strategy meeting, Alan Seath, Amanda Givan.
18 Agenda - TRiM."

19 And then there's redactions. Is that what you were
20 talking about earlier this morning as well, that you
21 then had -- you called it a handover, with Alan Seath?

22 A. Yeah. So I wanted to go through that strategy and the
23 points in that strategy with them and for them to then
24 carry out that action with the officers, and that would
25 be part of the handover. And we also spoke to the

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1 officers, as we'll come to.

2 Q. Then there is mention of "Media - can't control". If we
3 move on to page 19, what does that word say?

4 A. Top line?

5 Q. Yes.

6 A. So:

7 "Diary - write your recollection. Keep diary
8 ongoing."

9 So this was advice to the officers to record,
10 notwithstanding the discussion around provision of
11 statements, that they themselves should record their
12 recollection, so that they have that, as I've done with
13 my log, that that is the recollection, and that's it
14 recorded. So that was advice to the officers.

15 Q. We've heard from, I think, definitely one, perhaps two
16 officers that when they went to give their statements to
17 PIRC, on 4 June or thereabouts, they produced a document
18 that they'd prepared. Is that the type of thing that
19 you were talking about there?

20 A. It could well have been, and they may have received
21 similar advice at that FAI briefing as well, I'm not
22 aware of that.

23 Q. Then does it say, in relation to FAIs, that they would
24 be perhaps called as witnesses at some point in the
25 future?

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1 A. This is just the point about the timescales involved can
2 be long and therefore, you know, recollection can fade.

3 Q. Then carrying on, keep going, you've continued to be
4 involved, even though you've talked about a handover to
5 Alan Seath, but we see entries there, 12, 12.45, 1300s,
6 1400s.

7 A. Yeah.

8 Q. Can you explain to the Chair why, although you'd had
9 that handover with Alan Seath, there appeared to be
10 continuing entries in your log?

11 A. So I'm still -- so I was in Kirkcaldy the whole day, so
12 there wasn't a -- this isn't about me sort of at
13 9 o'clock in the morning saying, "Here you go, it's on
14 you now", I was there all day to both develop that
15 strategy, talk to the officers, make sure Alan knew what
16 he was going to do going forward. So it was just --
17 it's not a time, date handover, it's a process of me in
18 my role and my knowledge and transferring -- and working
19 with Alan, because he also would have had ideas that fed
20 into that, and, you know, working together to make that
21 handover happen. So it's a whole day spent in Kirkcaldy
22 to develop these things.

23 Q. And again, at 1300 hours, do we see reference to the
24 "Template for Individual Welfare Plan prepared", and --

25 A. Yeah.

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1 Q. -- again was that something you mentioned this morning?

2 A. Yeah, so that was the document set we touched on this
3 morning.

4 Q. Then if we can move down the page, please, on the
5 screen, and at 17.25, there's mention of you emailing
6 Keith Hardie, and:

7 "... re: contact from PIRC, re: statements to come
8 through PIM."

9 Can you tell us what that was in connection with?

10 A. So Keith was the name that had been given to me as the
11 point of contact for PIRC, so it had moved away from
12 Pat Campbell at this point, and I'd been given the name
13 of Keith Hardie, he's a DCI. And I, at this point, in
14 line with the process, I still felt I had a role to play
15 in terms of that provision of the detailed accounts in
16 line with the SOP, but no one from the investigative
17 team was proactively approaching me to facilitate that.
18 So this is another example of, I suppose, me trying to
19 inject myself in the process, as I thought right. So
20 I've emailed Keith to say, "Look, statements should --
21 that provision of statements should come through the
22 post-incident manager in line with the SOP."

23 Q. So that was you acting in line with the SOP?

24 A. That was --

25 Q. And you mentioned Keith Hardie and a contact from PIRC.

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1 We may hear from Keith Hardie that he was from MIT, as
2 people have called it, the major investigation team --

3 A. Right. Yeah, okay.

4 Q. -- who may have been supporting PIRC --

5 A. Right, okay.

6 Q. -- in leading the investigation.

7 Can we look at Thursday 7 May, 10.50, you talk
8 about:

9 "Discussion with Alan Seath/Keith Hardie re:
10 statements from officers. Legal advice has been to wait
11 until cause of death after toxicology. 'Compel' officer
12 to provide statement -- difficulty if status, officer
13 could change from legal advice."

14 So can we go back to the start of that. Thank you.

15 Could you explain to the Chair what this entry
16 connects with and what the discussion was?

17 A. Yeah. So, I can't recall if this was a teleconference
18 between the three of us. It indicates that to me in
19 terms of the entry that I've put, that it's a three-way
20 conversation, but I don't recall that specifically. But
21 that's certainly what I'm interpreting my entry to mean
22 there, that there was a -- it must have been
23 a teleconference for the three of us to be there.

24 Q. Can I ask you just to pause there.

25 A. Sorry.

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- 1 Q. Can you look at the next page, page 20, at 12.36, and
2 there is particular mention there of "Telecon with DCI
3 Keith Hardie, PIRC ..."
- 4 A. Yeah.
- 5 Q. Looking at that subsequent entry, could it be that the
6 subsequent one was a telecon?
- 7 A. So I think -- I don't think either would have been
8 face-to-face, sorry, if that's what you're suggesting.
9 I think they will both have been over the phone. So I
10 was in Kirkcaldy on the day before, but the Thursday,
11 I think I would have been working in my usual office.
12 So I think that these are both telephone calls. I'm
13 surmising that -- because I've written two names, I'm
14 surmising that's a three-way conversation as opposed to
15 a one-to-one.
- 16 Q. All right. Sorry, I interrupted you. We were looking
17 at the earlier entry on page 19, which started at 10.50
18 hours.
- 19 A. So I'm still recording the legal advice position that
20 we've spoken about. Sorry, actually, no, that's now
21 a change, isn't it? So what this now --
- 22 Q. This is after the cause of death has been --
- 23 A. Yeah. So this is now saying, so we must have had
24 an update saying that -- this actually explains the
25 further delay. Sorry, this explains the further delay

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1 in the sense that toxicology obviously takes a number of
2 days to come through, I think typically ten days, and if
3 the advice to the officers is now to wait until after
4 toxicology, then that might indicate that delay. So
5 that's being fed into the discussion there, that that's,
6 you know, going to invoke a further delay.

7 And then there's this issue around -- which we
8 started to touch on, I think, yesterday -- about
9 compelling officers to provide statements, and is that
10 something that we can do as an organisation or not. And
11 that difficulty around their status and their rights in
12 terms of sort of self-incrimination and so on. So
13 I think that that's a reference to -- to some of the,
14 I suppose, the tricky issues around this whole situation
15 we found ourselves in.

16 Q. First of all, in relation to toxicology, did you have
17 any knowledge of what ongoing concerns the officers had
18 regarding the outcome of toxicology results?

19 A. No, I didn't have that detail. So my level of detail is
20 around the legal advice having -- you know, the legal
21 advice is still to wait until after that point, so
22 I don't have any more detail around that.

23 Q. When you were talking about compelling officers to
24 provide statements, were you -- you were obviously party
25 to this discussion?

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- 1 A. Yeah.
- 2 Q. What comments were you making about the possibility of
3 compelling officers to provide statements?
- 4 A. Erm ... I think it's -- and I think it's a really
5 difficult position to be in. And so, from
6 an organisational point of view, then we can -- officers
7 can be on duty and can be asked to provide
8 an operational statement. The level of detail in that
9 statement is a matter for them to document. So whilst
10 you might be able to compel an officer to provide
11 a statement, you can't compel the level of detail,
12 that's -- that would be the individual's choice in terms
13 of level of detail they were going to be putting there.
- 14 So, in a way, the compelling the officer could be
15 seen as self-defeating in terms of the purpose of this
16 is to actually elicit the full account of what has taken
17 place. And so that was the kind of discussion. Whilst
18 we might, as an organisation, be able to do it, what
19 would the benefit/net result be of that?
- 20 In terms of the circumstance we found ourselves,
21 which is around the legal advice the officers now had in
22 terms of toxicology, so that's the kind of discussion
23 that was ongoing at that -- at that level.
- 24 Q. And the word here that's used or words is "statements"
25 and "statement". Have you moved beyond the idea of

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1 initial personal accounts at this stage?

2 A. Yeah. Yeah, so we're now talking about stage 4
3 detailed -- because they've now had two periods of rest,
4 so the whole focus now is on detailed, you know,
5 detailed accounts, detailed statements.

6 Q. Thank you.

7 A. And actually, in the -- if we reference back to the SOP,
8 it does reference if, for reasons you can't obtain
9 initial accounts on the day, then, you know, you wait
10 the two rest periods for the detailed account, which is
11 ultimately what we want, because that's the full ...

12 Q. Can we move on to page 20, 12.36 hours, this is the
13 discussion with Keith Hardie. Can you tell us what this
14 says?

15 A. Yeah. So this, this relates to -- and we did touch on
16 this yesterday in terms of my role on the day. So this
17 is the bit about: yes, the officers are receiving that
18 advice, but have we actually asked them to provide
19 a statement in that one-to-one, I think it was the Chair
20 actually mentioned this yesterday, can we sit down with
21 them one-to-one and say, "Recognising the legal advice
22 you've had, will you provide us a statement?"

23 So the decision or the view of the investigation
24 side that I was aware of through the conversation with
25 DCI Keith Hardie is that they wanted to do that. So at

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1 this point, we hadn't done that and they wanted to
2 actually say to the officers, you know, sit them down
3 and say, "Will you provide us with a statement?" And
4 then obviously take their answer and take it from there,
5 sort of thing.

6 So that was the -- that was that conversation.
7 Hence, the detail afterwards, sorry, about the five
8 officers who were able to -- would attend work at 1300.
9 You see:

10 "DCI will request statement with [the Inspector]
11 Alan [Seath]/Amanda in support."

12 And just noting that they'd received the legal
13 advice.

14 Q. We may -- we've heard evidence that at some point during
15 the course of that week, the week after the events, that
16 officers were called in for a meeting with MIT, officers
17 from MIT, who we will hear Keith Hardie was one of them.

18 A. Right.

19 Q. And during that meeting, they were asked for statements.

20 A. Yeah.

21 Q. Was there any notice given to the officers before this
22 meeting, as far as you know, that they were going to be
23 asked for statements at that meeting?

24 A. Not that I'm aware of. So, my interpretation of my
25 notes is that the officers were coming on duty at

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1 1 o'clock in any case, so that's the time they'd been
2 asked to come on duty, those that were fit to work, and
3 based on the discussions that morning, and obviously the
4 PIRC position that I've documented there, that that was
5 going to happen.

6 So obviously, the DCI, both Alan Seath is aware of
7 this and Amanda Givan is also aware of this, but if
8 there was communication to the officers in advance of
9 them attending -- bearing in mind that's 12.36, the
10 officers may well be travelling to work at that point.
11 So my suspicion is, based on my notes, is that they
12 probably were made aware of that was going to happen
13 when they attended for duty.

14 Q. Looking back now through the lens of a post-incident
15 manager and considering the welfare of the officers, do
16 you think that giving them notice that they're going to
17 be asked for statements by officers from MIT would have
18 benefited them from a welfare perspective?

19 A. That probably would have been a better approach, but
20 based on the circumstances at the time, the discussions,
21 the unique situation we were facing, that isn't how it
22 materialised. And, as I say, in terms of post-incident
23 procedures that have happened subsequently, the
24 principle of coming back in two days' later and
25 providing a full statement is well understood and

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1 documented and so on. So the challenges that we were
2 facing here are not challenges that, in my experience,
3 we've had to face in subsequent post-incident
4 procedures.

5 Q. And I see that present at that meeting, the plan was
6 that Alan would be there, and Amanda. So Alan Seath and
7 Amanda Givan. Were you to be at that meeting?

8 A. No. So -- no, not at that point.

9 Q. Were the officers to be invited to bring their lawyer
10 along?

11 A. No.

12 Q. And again, from a welfare perspective, knowing as you
13 did that the legal advice at that time was to wait
14 further, pending toxicology, no notice given, do you
15 think in hindsight that perhaps they should have been
16 invited to bring a lawyer along?

17 A. So the legal aspects, from my recollection and the
18 notes, the legal aspects were being well covered through
19 the Federation. How they were engaging, so we've
20 already referenced the meeting with the Federation
21 lawyer, which will have been on the day before, will it,
22 the afternoon of the day before, the Wednesday? So
23 they've had -- they are represented, they've had
24 interactions with the lawyer and they're represented by
25 the lawyer. The detail of how that worked out was not

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- 1 something that I was involved in.
- 2 In a gold standard response, yes, giving people
3 notice, allowing them to bring legal representation, in
4 order to complete that stage 4 account, of course is
5 a better way of doing it than how it transpired.
- 6 Q. Then we see another phone call noted with Amanda,
7 probably should be "Givan", rather than "Niven" there --
- 8 A. Sorry, yeah, yeah. Typo, sorry.
- 9 Q. 1515, and then you've listed the names of a number of
10 people, Alan, Dan, James, Ash, Kelly. Was that the
11 names of the officers who were at that meeting with MIT?
- 12 A. That's my --
- 13 Q. Or is this somebody else?
- 14 A. No, I think that's my understanding. So I've got five
15 officers to attend at work at 1300, so five officers
16 were obviously fit for duty on that day in question and
17 then I've listed five names of officers. So yes, my
18 assumption is that those are the five officers that
19 attended.
- 20 Q. So that would be Alan Paton, Daniel Gibson,
21 James McDonough, Ashley Tomlinson, and Kelly Good --
22 Kayleigh Good is the name of one of the officers.
- 23 A. Yes, that will be --
- 24 Q. Probably instead of "Kelly".
- 25 A. Yeah.

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1 Q. Can we move on now, please, to Monday 11 May. So again,
2 you're given an update from Inspector Seath. Did you
3 continue in your role as post-incident manager up to
4 11 May?

5 A. Yeah, so I tried to stay involved in my role as
6 post-incident manager, because I felt it was appropriate
7 for me to be involved, in line with the SOP, that
8 stage 4 accounts still hadn't been given and I thought I
9 had a role to play in that. As I've indicated, those
10 discussions were actually happening directly between
11 PIRC and/or PIRC reps and the Federation, and so
12 I became sort of less and less involved in that
13 provision of those accounts, to the extent that I didn't
14 know the date that they were provided until you shared
15 it earlier.

16 So my involvement -- so the involvement in that week
17 after, as you see by the log, was there was a reasonable
18 amount of discussion that I was involved in, actually
19 prompted by my email to Keith to say, "Look, I need to
20 be part of this", and from a welfare point of view,
21 there was that sort of handover period with Alan.

22 But, yeah, from that Monday, you know, Alan very
23 much is looking after the welfare side and obviously at
24 that point, we still -- there was still no resolution
25 around the provision of the statements.

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1 Q. So Alan Seath as line manager --

2 A. Yeah.

3 Q. -- effectively takes over the welfare side.

4 A. That's right.

5 Q. And was Monday 11 May the last day that you were

6 involved? There's no other entries in your PIM log.

7 A. Yeah. No. So several days, just a few days' later,

8 PIRC obviously took my statement and took possession of

9 the PIM log, so there wouldn't have been any other

10 entries after that in any case. But from recollection,

11 there was no substantial involvement, because the

12 welfare has been taken care of and the investigation

13 side and the Federation were engaging about the

14 provision of statements. So my -- I wasn't adding any

15 value in terms of my role.

16 Q. So you effectively stepped down from that point?

17 A. Yes, that's right.

18 Q. Now, 11 May effectively takes us up to seven days after

19 the events, which we talked about yesterday --

20 A. Yes.

21 Q. -- when we were looking at the SOP. And, as you knew by

22 then, no statements, detailed statements had been

23 provided. Did that expiry of that seven-day period in a

24 sense cause you to reflect on whether you could do any

25 more about procuring or facilitating statements for the

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1 investigation?

2 A. No, I've -- as I've sort of touched on, I felt that my
3 influence, value I was adding was getting less and less
4 as that first week was going on, that the discussions
5 and the decisions were all being taken outwith any forum
6 that I was in or been invited into. I tried to get
7 myself back involved and, you know, and then the
8 discussions and the conversations moved on into other
9 forum. So I felt I'd done what I could do in terms of
10 the role that I played. And actually, I would probably
11 be adding a layer of complexity if I continued being
12 involved, because those direct conversations were
13 playing out.

14 Q. I'd like to move on now. We could maybe have your
15 Inquiry statement on the screen, paragraph 143, please.
16 This is where you mention the nature of the
17 investigation is for the SIO. This was the first day of
18 an incident and the investigation is ongoing. So we're
19 talking about 3 May 2015. And you say:

20 "From what we knew, this absolutely could've been
21 a criminal investigation into the actions of Sheku Bayoh
22 prior to any police engagement. This would involve
23 investigating if any crimes were committed."

24 I'm interested in what it was you're referring to
25 there. Obviously, Mr Bayoh died on 3 May. So what do

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1 you mean saying:

2 "... this absolutely could've been a criminal
3 investigation into the actions of [Mr Bayoh] ..."

4 A. So I'm referring to the actions prior to the police
5 involvement. So the -- so, as per the sit rep on that
6 first -- Sunday morning, that you've -- that the sit rep
7 was that there was a male in possession of a machete, as
8 I had written it. That's a criminal act. So there's
9 criminal behaviour that needs to be investigated,
10 notwithstanding all the other angles that need to be
11 investigated as well.

12 Q. And notwithstanding the fact that the male has died?

13 A. So, which is where I've, in the paragraph above, the --

14 Q. Let's look at that, 142.

15 A. Yeah. So this is an Article 2, Human Rights Act
16 investigation, and that's absolutely the primary purpose
17 of this. And that's, as we touched on yesterday,
18 there's a responsibility on the state to independently
19 investigate any actions of the state that result in the
20 death of any members of that state. Article 2, Human
21 Rights Act. That's what post-incident procedure is
22 borne out of, and that's absolutely the primary purpose
23 that PIRC have got in investigating this.

24 So I'm not in any way demeaning the serious and
25 significant primary purpose of the investigation by

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1 referring to other angles of investigation that are also
2 relevant, potentially relevant.

3 Q. I understand why there would be an investigation,
4 Mr Bayoh was alive, there was police contact, there was
5 restraint, and then he was -- he died. And I can
6 understand why that would be part of a criminal
7 investigation. Can you explain why him walking along
8 the road with a knife would be a criminal investigation?
9 Are you saying it's part of the general circumstances?

10 A. So, what I'm trying to describe here is the -- is the
11 lenses of an investigation. So ... and I've tried to --
12 I've tried to draw it out in four aspects. The
13 Article 2, Human Rights investigation, is not
14 investigating the criminal acts, it's investigating the
15 use of force of the state, as in the use -- that might
16 be perfectly justified, legitimate and so forth.

17 There's still an investigation into that. That's
18 right and proper, and is the primary purpose of this
19 investigation. But that's not a criminal investigation
20 into people's conduct, that's an Article 2
21 investigation.

22 There is then the responsibility of the
23 Lord Advocate and the Crown Office in relation to the
24 death of any individuals and their responsibility in
25 relation to the investigation of deaths.

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1 So that's a lens of the investigation. So I'm not
2 saying there's four separate investigations here. I'm
3 saying there's four different lenses of the
4 investigation.

5 And then there is the conduct that has taken place,
6 which until you investigate you don't know what has or
7 hasn't occurred there. So you need to investigate the
8 circumstances leading up, but you don't -- you're
9 investigating the circumstances in the broadest sense,
10 and that also then includes the fourth lens, which is
11 the conduct of all the individuals involved. And there
12 may be criminal conduct by, you know, civilians, other
13 members of the public in relation to this overarching,
14 as well as conduct of officers.

15 So you're -- I suppose I'm just trying to explain
16 that this is actually a really complex investigation,
17 and again, that's why the SIO has a terms of reference
18 that would identify that.

19 Primary purpose is the Article 2. Clearly, Human
20 Rights Article 2 is a priority over the rest of it, but
21 you're not just investigating the circumstances that led
22 to the death, you are investigating -- well, you are
23 investigating the circumstances that led to the death,
24 but in a broad context with different perspectives, and
25 that would come out through the terms of reference that

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1 an SIO would have.

2 Q. So just to be clear, because members of the public are

3 listening.

4 A. Yeah, absolutely.

5 Q. This wasn't a criminal investigation, because Mr Bayoh

6 couldn't be prosecuted, he had passed away.

7 A. Correct.

8 Q. So it's not that type of criminal investigation into any

9 action he took with a knife, but it is an investigation

10 regarding the full circumstances --

11 A. Yes.

12 Q. -- of what led up to his death and the events at

13 Hayfield Road.

14 A. Correct.

15 Q. Can I ask you about -- you've made a number of comments

16 about the Stephen Lawrence Inquiry and the impact that

17 that had on your career and the police service. Can you

18 perhaps explain to the Chair, what was it about the

19 murder of Stephen Lawrence that had an impact on

20 post-incident procedures and post-incident management?

21 A. So I was asked in the Inquiry statement around policing

22 and race more generally in a broader, a broader sense to

23 my specific role on the day. And, you know, one of the

24 important points that I think it's important for the

25 Inquiry to understand is in February '99 was the

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1 MacPherson report, which is the month and year that
2 I joined policing, and that throughout my career that,
3 not just from the media reporting around that, but
4 throughout my career that has been used to inform
5 policing practice and policy, to improve policing
6 practice and policy in relation to not just the
7 specifics of race relations and police engagement, but
8 more generally in terms of how we deal with critical
9 incidents.

10 So I suppose the specific -- there's probably two
11 things that came out of the tragedy and the MacPherson
12 report. One, from a UK policing point of view, is
13 around critical incident management, and we've talked
14 about this being declared a critical incident. So
15 critical incident management. And, in Scotland, the SOP
16 that evolved out of that. And indeed, there's
17 a training course that Police Scotland also put in place
18 around critical incident management. All of that stems
19 back to, you know, the tragedy around Stephen Lawrence
20 and the MacPherson report.

21 So that's sort of well embedded in policing
22 learning, organisational learning, and indeed has
23 influenced policy in terms of critical incident policy
24 and has influenced training in terms of the training
25 course that focuses around critical incident management

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1 and focuses around the scenario that we use in Scotland
2 is around race relations and some of the challenges of
3 policing in that environment.

4 So there's a direct correlation actually from that
5 Inquiry, that report, and how policing has progressed as
6 an organisation and how staff have been trained and so
7 on. I've sort of grown up in policing during that whole
8 time period, and therefore it's kind of been embedded in
9 all the training, you know, and development I've done
10 over the years.

11 The other, from a Scottish point of view, the other
12 thing that evolved out of the MacPherson report was our
13 own equivalent of the Black Police Officers Association,
14 so SEMPER Scotland was, you know, the ideas and the
15 embryo of that came out of the Scottish discussion from
16 the MacPherson report and, you know, through workshops
17 and so on, SEMPER Scotland was created, which is our
18 staff association for black police officers. And
19 they're both really powerful, you know, one from
20 an operational -- critical incident management from
21 an operational delivery perspective is a really
22 critical -- is a really important tool for how we
23 deliver our operational policing response and from
24 an inclusion diversity perspective, SEMPER Scotland,
25 they're a key stakeholder and a key contributor to how

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1 we take forward equality and diversity issues in
2 policing.

3 And that's -- there's really direct and credible
4 links there between that tragedy in London and how
5 policing has evolved across the UK and in Scotland.

6 Q. Is there a correlation between -- you've talked about
7 the MacPherson report, you've talked about critical
8 incident, is there a correlation between critical
9 incident and post-incident procedures?

10 A. Not directly, but ... so as we discussed yesterday, the
11 evolution of post-incident procedures is really from
12 firearms operations and police discharge of firearms and
13 the way that officers have been dealt with in the
14 aftermath of firearms incidents. That's really the
15 evolution of post-incident procedure.

16 But there's a clear read across interdependency in
17 terms of a critical incident could be -- and it's only
18 could be -- could be one that has involved a number of
19 officers in some of the criticality of that incident.
20 It might not be, because the critical incident could
21 have evolved from an incident in society and the police
22 are then involved in. But it could evolve, as it did in
23 this example, it could evolve from an interaction and
24 therefore, you know, post-incident procedure is
25 an important part of that aspect.

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- 1 And so the two are interdependent, but they're
2 not -- they can operate in isolation and they can
3 operate together, if that --
- 4 Q. So there's not a direct correlation between --
- 5 A. No.
- 6 Q. -- the MacPherson report, critical incident, and the
7 role of post-incident manager in post-incident
8 procedures?
- 9 A. Yeah. And, well, maybe the easy way to describe it is
10 you want two decisions. So there will be a decision
11 around is this a critical incident? Yes or no?
12 Implementing critical incident procedures and so on. Is
13 this applicable -- is post-incident management
14 applicable to this? Yes or no? Implement those
15 procedures. But they are, by their very nature, they're
16 kind of self-supporting, I suppose would be the way to
17 describe it.
- 18 Q. They could both be implemented where there are serious
19 incidents --
- 20 A. Yeah.
- 21 Q. -- and so they could co-exist?
- 22 A. Yes, absolutely.
- 23 Q. You also talk in your statement about equality impact
24 assessments. This is at paragraph 44.
- 25 A. Thanks.

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1 Q. We'll get that on the screen. And you talk about
2 equality impact assessments:

3 "... any new policy or procedure is impact assessed
4 against equality, protected characteristics and human
5 rights. That's what we're doing now, in practice, to
6 avoid institutional discrimination against protected
7 characteristics. The Lawrence Inquiry has been hugely
8 influential in driving change between where we've been
9 and where we are now."

10 Can you tell me, what's your involvement, if any, in
11 carrying out equality impact assessments?

12 A. So probably two strands, and it depends I guess which
13 bit of my career. So I have been involved in the
14 creation of policies for certain aspects of policing,
15 and then one of the responsibilities in terms of
16 creating a policy is carrying out an equality impact
17 assessment. My new role will probably take me back into
18 that sort of area as well. I'm -- I've also in my -- in
19 sort of a more operational context, I've been involved
20 in terms of being a consultee around that.

21 So there's an element of engagement, internal and
22 external engagement with equality impact assessments.
23 And indeed, in a previous role, Scotland has an Islands
24 Act, which talks about discriminatory policies in terms
25 of the Scottish islands and so there is a need to impact

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1 assess policing policies on actually the remote and
2 rural islands as well, and that was part of my
3 responsibility.

4 Q. You were formerly a commander in the Highlands and
5 Islands --

6 A. In the Highlands and Islands, yeah, so it was kind of
7 very relevant to that role.

8 So I've been involved -- so I'm not the author of
9 them, but some of my team might be the author of them,
10 and I might be a consultee in them. But that's almost
11 like the policy and the tool that can drive equality
12 through the policy side of policing, which of course was
13 the -- you know, the MacPherson report talked about that
14 institutional racism and how that is -- you know, how
15 policies and procedures can discriminate not through
16 sort of a direct sort of act of racism, but by
17 a discriminatory aspect that hasn't been considered. So
18 the tool to try and overcome that or to mitigate that is
19 the equality impact assessment.

20 Q. Seeking examples, perhaps, of where discrimination could
21 arise on a more subtle level?

22 A. Yes.

23 Q. And how are the outcomes of equality impact assessments
24 communicated? You've talked about having been involved
25 or contributed to these. How are the results of that

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- 1 then communicated back to officers?
- 2 A. So it is actually, it is a document that sits -- so if
- 3 there's a new policy, it's a document set that sits
- 4 behind it, so that impact -- actually an equality impact
- 5 assessment should take place during the sort of the life
- 6 cycle of developing the policy. So it's a feedback
- 7 loop. So if you consult on -- if you either identify
- 8 something or consult on it, and there is some sort of
- 9 impact on a protected characteristic, then obviously you
- 10 should change the policy.
- 11 So it's not a "We've done this policy, do the impact
- 12 assessment. Oh look, it's not compliant." It's a case
- 13 of it's part of the process of policy development that
- 14 should feed back into "Right, we need to change that
- 15 policy because actually it's impacting this demographic
- 16 or that ..."
- 17 Q. There is new information may come to light or examples
- 18 are highlighted --
- 19 A. Yeah.
- 20 Q. -- that causes a review to take place?
- 21 A. And all policies have review dates and so on.
- 22 Q. It sounds like a similar model to the evidence we've
- 23 heard about the National Decision-Making Model where new
- 24 information comes in and reviews are ongoing. Is that
- 25 the same sort of pattern --

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1 A. Yeah, so National Decision-Making Model is a very
2 operationally focused decision model and process and so
3 on. Whereas equality impact assessments is a more
4 formal policy development of organisational document set
5 and process.

6 Q. Can you think in your experience of any policies that
7 were changed because of concerns that were highlighted
8 as a result of these assessments?

9 A. So I don't have direct experience of that, that would be
10 helpful. There have been -- so in my former role, as
11 you've touched on, the Island impact assessment did
12 change more some of the language that was used in some
13 of the policies rather than necessarily the detail of
14 them. But there's nothing -- there's nothing that's
15 kind of leaping out that would demonstrate it well,
16 I'm afraid, sorry.

17 Q. Anything that you've come across in relation to race?
18 You've talked about protected characteristics. Can you
19 think of anything?

20 A. Not that I've been directly involved in, sorry.

21 Q. Is there a department or a part of the organisation that
22 deals with equality impact assessments?

23 A. Yeah.

24 Q. Or is it general that various officers across
25 Police Scotland have to do these?

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1 A. So we have a policy, we have a policy unit that would
2 co-ordinate. So typically, the policy would be created
3 both by the subject matter experts in terms of whatever
4 the area of policy was, so you need a feed-in from those
5 individuals, and also the policy unit to just, well,
6 initiate things like equality impact assessments, make
7 sure the government's processes are right and so on.
8 So, yeah.

9 Q. And they would be handled by that policy unit?

10 A. Indeed.

11 Q. You mention in paragraph 45, which we could put on the
12 screen, that by the time of the incident involving
13 Sheku Bayoh, in 2015, you say:

14 "... we'd already come some way since
15 Stephen Lawrence. The Stephen Lawrence investigation
16 and Inquiry played out in the decade before."

17 Can you identify the main changes in policing
18 between the Stephen Lawrence report, which you've
19 described as 1999, and 2015?

20 A. Yeah. So I think the two, the two pillars that I would
21 identify are critical incident management SOP and the
22 simplicity training that I referred to. So we had
23 a specific three-day course that was evolved for Police
24 Scotland to train managers around critical incident
25 management.

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1 So that's the main -- you know, that's a really
2 significant change that led, you know, prior to this,
3 and then the SEMPER Scotland one.

4 So those are the two -- in my mind, those are the
5 two most obvious sort of practical examples of things
6 that have changed organisationally based on that.

7 Q. And simplicity is the critical incident management?

8 A. Yes, and it's complex, hence the ...

9 Q. We've heard some evidence that there was also training
10 rolled out to all officers in Police Scotland after the
11 MacPherson report into Stephen Lawrence's murder. Were
12 you -- did you take part in that training?

13 A. Yeah. So, I mean, so throughout my career there have
14 been various courses with -- and we touched on my
15 training record before, there's a number of courses in
16 there, specific equality diversity courses that I've
17 undertaken and equally as part of leadership training,
18 you know, equality and diversity is referenced within
19 leadership training.

20 So it's ... I mean, the short answer is: yes,
21 there's been a significant amount of training that I've
22 received over the years from not just up to 2015, but
23 well beyond. It's a feature of police training in terms
24 of equality and diversity and there has been standalone
25 courses that have been done.

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1 So I think -- I think in my statement, I reference
2 a one-day course. When I was with Tayside police, they
3 ran a one-day course programme that every single officer
4 went on. I've attended courses at the police college
5 that certain ranks attended and had a focus around
6 equality and diversity issues.

7 So there's -- and then, as I say, more generally in
8 the leadership programmes that I've been on at various
9 ranks, you know, there's always an angle, because
10 equality and diversity is a leadership issue, so
11 therefore it's part of leadership training.

12 Q. What about if you're not considering or undertaking
13 leadership training, have there been courses for
14 constables who don't have plans to seek promotion?

15 A. Yeah, so that course I referred to when I was in Tayside
16 police, I think I was a constable when I went on it
17 actually, so that was rolled out to the whole
18 organisation more -- sorry.

19 Q. You mean Tayside or do you mean Police Scotland?

20 A. Sorry, that was Tayside police example. Actually, more
21 recently, there is a training package that again
22 an update around equality, diversity and inclusion has
23 been rolled out across the whole organisation again and
24 every member of staff needs to -- police officers and
25 police staff needs to complete that. So --

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- 1 Q. Is that an eLearning programme called Moodle?
- 2 A. That's right, it is.
- 3 Q. In relation -- thinking back to training in relation to
4 the MacPherson report and the Stephen Lawrence murder
5 and institutional racism and that type of thing, we've
6 heard evidence that there was a course rolled out after
7 that report for all members of Police Scotland. Do you
8 remember attending that?
- 9 A. So the Police Scotland is obviously 2013 and MacPherson
10 was --
- 11 Q. Yes.
- 12 A. So I think it must have been the legacy --
- 13 Q. You are absolutely right to correct me. Legacy forces
14 but rolled out across Scotland rather than
15 Police Scotland?
- 16 A. So, sorry.
- 17 Q. No, you're absolutely right.
- 18 A. I wouldn't have had the knowledge of how widely that
19 programme was rolled out, but I obviously took part in
20 that programme within Tayside police as it was at that
21 point. But if it was rolled out across Scotland, then
22 that would be right.
- 23 Q. Was that ever repeated, that course?
- 24 A. So not that I'm aware of, but I've -- but there have
25 been a number of other courses around the equality and

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1 diversity that have, you know, been put in place.

2 So ...

3 Q. What have been the main learning points that you've
4 learnt in relation to equality and diversity over the
5 years? Can you summarise those?

6 A. Erm ... so ... it's not an easy question to summarise
7 and answer. My personal learning has been around the
8 leadership role that it is. And what I mean by that is
9 that -- in fact, go back a stage. So the importance of
10 equality and diversity in policing is that -- it's
11 two-fold. One, we should represent the communities
12 which we serve, and as an organisation, we want to grow
13 and develop in terms of the talent that we have within
14 the organisation.

15 You can only do both of those things if you are
16 an inclusive organisation, if you're a diverse
17 organisation, and therefore the fundamental side of that
18 is that there is equality running through the
19 organisation.

20 So as -- and this is -- you know, society is ever
21 evolving in this space as well and we do reflect
22 society. So we're not a perfect organisation and
23 therefore we're on a journey in terms of equality,
24 diversity and inclusion, which is why you have to both
25 repeat training or change the way you do it, so that

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1 you -- we spoke, touched on, is a training course the
2 best way to train? Well, actually it's lived experience
3 is a better way and that's why it's a leadership role.
4 So this is about leaders at every single rank in the
5 organisation being inclusive to encourage diversity. So
6 if you're an inclusive organisation, you encourage
7 diversity through recruitment. If you're a diverse and
8 inclusive organisation, your engagement with communities
9 is better. And therefore -- well, again, it's another
10 feedback loop, isn't it?

11 So the more -- if you engage with communities in
12 an improved way, you increase public trust and
13 confidence in policing. Actually, you also increase the
14 recruitment pool of people that are then interested in
15 policing, because they then see it as a career for them
16 rather than maybe a career over here.

17 So the two interplay continually in terms of the
18 internal benefits of diversity, inclusion, and also the
19 community engagement aspects and the representing the
20 community and serving the community and public trust and
21 confidence in the community.

22 So for all those reasons, that's why this is
23 a leadership role at every single rank in the
24 organisation. And obviously, I've played my part in the
25 various leadership roles that I've had. So it's much

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1 more than training. This is about how we operate as
2 an organisation. This is about how we don't shy away
3 from errors that we've made, that we learn from them and
4 that we try and implement and improve the way that we do
5 our business.

6 And I suppose, again, personal reflection is and
7 some personal learning is around that topic of
8 unconscious bias. So unconscious bias is, you know,
9 an issue for society, it's an issue for everyone in this
10 room. Everyone has unconscious bias. And the
11 importance is that people recognise that -- obviously,
12 it can't become conscious bias, because then it is not
13 unconscious bias, but recognise that unconscious bias is
14 a thing and recognise how it might be affecting your
15 thought process, your decision-making process, your
16 engagement processes.

17 So it's massively important. So it's important for
18 communication on a one-to-one level, it's important for
19 communication on an organisation to society level, and
20 it's an important for an organisation from an internal
21 recruitment, retention, better organisation, wellbeing
22 approach as well.

23 Q. In relation to unconscious bias, as part of the training
24 that you've undertaken over the years, have you been
25 taught about unconscious bias?

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1 A. Yes, you can probably tell that, couldn't you? That's
2 why that education piece is important, because you only
3 know what you know. So there is -- and actually, so the
4 unconscious bias bit is part of a -- we've got something
5 called inclusion moments in the organisation, which are
6 small sort of clips and video clips that generate
7 discussion in group settings. So one of those inclusion
8 moments is around unconscious bias, which we've rolled
9 out across the organisation in terms of through command
10 teams and into, you know, team briefings and so on, just
11 to --

12 Q. How recent are these inclusion moments being part of the
13 training?

14 A. Over the last couple of years, I think, they've been on
15 the go. So they've been trialled and then sort of more
16 widely available.

17 Q. In 2015, was unconscious bias being taught at that
18 stage?

19 A. I don't know the answer to that. We would need to look
20 back on sort of training records. I can't remember when
21 --

22 Q. We are going to hear more evidence about training --

23 A. I'm not a training expert, so --

24 Q. Okay.

25 In your experience, was it only on the leadership

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- 1 courses that you attended that you heard about
2 unconscious bias?
- 3 A. No, so those inclusion moments that I'm referring to are
4 deliberately designed so that you can take them and put
5 them into any context. So actually, it's out of
6 a training space and into more of an informal briefing
7 discussion space within a workplace. So you might spend
8 ten minutes at the beginning of a shift and go through
9 an inclusion moment, which could be on a variety of
10 topics, but the one we're talking about is unconscious
11 bias. So ...
- 12 Q. Yes, and that wasn't being done in 2015?
- 13 A. No.
- 14 Q. How -- to what extent was race a part of the training
15 that was delivered in 2015 or up to the point of 2015?
- 16 A. Yeah, I mean, again, you might get better evidence from
17 somebody that's been intimately involved in the
18 development of training products over the years.
19 Obviously, the Equality Act came in, in 2010, and so --
20 I know you're going to ask me: are you trained on that
21 or ... so I can't recall if I received specific training
22 on that or if that is a professional development of
23 myself in terms of my understanding of that.
- 24 Q. We've got your training records.
- 25 A. Yeah.

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1 Q. You've got a hard copy of those in the papers and in
2 your folder. I don't know if that would help you answer
3 --

4 A. I don't think the course will name check the detail of
5 this. But I suppose the point I'm trying to make is
6 Equality Act in 2010 was -- there was certainly
7 awareness raising within the organisation about the
8 Equality Act. Now, if that was specific training course
9 or if that was more broader awareness raising, I can't
10 recall. But, of course, the Equality Act brings in
11 protected characteristics, one of which is race.

12 So, to my mind, by 2015, the duties under the
13 Equality Act would be widely understood in policing.
14 I can't be specific, if that's a training course or if
15 that's general awareness or a combination of both. But
16 there's a five-year period from that Act coming into
17 existence to the incident we're talking about, where the
18 knowledge of that across the organisation would be much
19 wider. And specific courses did focus in on, you know,
20 on that Act and the legal duties within it, and the
21 concept of protected characteristics and discrimination
22 around those protected characteristics.

23 Q. Would that be across the board rather than just
24 particular areas, or are you not able to answer that?

25 A. I'm probably not best placed to answer that, to be

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1 honest.

2 Q. In terms of your own personal training into unconscious
3 bias, were you asked to hold a mirror up to yourself or
4 to reflect on your own unconscious bias, and if you were
5 asked to do that, could you identify unconscious bias?

6 A. So everyone has unconscious bias and actually, I mean,
7 there are some really simple sort of questions you ask
8 yourself. So you walk onto a plane and the pilot says,
9 "Hello" to you, tell me what gender the pilot was, what
10 did the pilot look like, and then straightaway your
11 unconscious bias comes to -- because the majority of
12 people will say it was a male, white male. So there's
13 a classic example of unconscious bias.

14 A consultant doctor comes in to speak to you about
15 an operation, describe the doctor, and people will
16 generally say a white male.

17 So these are classics, and this isn't just me, this
18 is society that would have these unconscious bias. So
19 I'm aware of those kind of things.

20 Q. What does the training do in terms of helping you
21 identify those biases and then helping you guard against
22 that in your day-to-day work?

23 A. Yeah, so I think from my understanding, and I'm not the
24 training expert in unconscious bias, so from my
25 understanding is that it's not a case of trying to

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1 remove unconscious bias from every person in society and
2 so on. It's actually the recognition that they exist.
3 So if you recognise that unconscious bias exists and you
4 may have them, and there isn't -- as far as I'm aware,
5 there isn't some sort of test that you do and therefore
6 you identify all your unconscious bias, because then
7 they are all conscious bias, et cetera. So you just
8 need to recognise that this is a thing that can happen
9 and then how it impacts.

10 So it's more about, and how does it impact. So it
11 might -- so you need to recognise that when I'm carrying
12 out this engagement in terms of either, from a policing
13 point of view, an element of operational delivery,
14 importantly community engagement, trying to resolve
15 a community issue, that there may be unconscious bias
16 that is playing out.

17 So what that then feeds into is your engagement
18 strategy. So this is actually all about listening. So
19 the way to overcome unconscious bias is to listen to
20 other opinions. So I might be in a situation and
21 might -- you know, might form an opinion of a situation,
22 I might not realise it's unconscious biases that I'm
23 forming that opinion of the situation, I feel that
24 that's my professional judgment forming that opinion.

25 So that's why you need to triangulate that with

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1 listening to someone else, to take in an alternative
2 perspective, and then you suddenly realise that what you
3 were -- how you were observing something, your judgment
4 on something is merely your judgment on something.

5 And this is -- so this is how it links directly back
6 into a diverse workforce, because every one of us has a
7 different unconscious bias, so if you put the problem
8 into a group and you get different people looking at
9 that problem from different perspectives, and you listen
10 to those perspectives, then you will overcome
11 unconscious bias through that engagement and that
12 diverse thinking. And, you know ...

13 MS GRAHAME: Thank you.

14 Would that be an appropriate moment?

15 LORD BRACADALE: Very well, we'll stop for lunch and sit at
16 2 o'clock.

17 (1.02 pm)

18 (The short adjournment)

19 (2.00 pm)

20 (Proceedings delayed)

21 (2.04 pm)

22 LORD BRACADALE: Ms Grahame.

23 MS GRAHAME: Thank you.

24 Before lunch we were talking about the training that
25 you've undergone, and I wondered, looking back, how do

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1 you think the training you've had has influenced your
2 ability to recognise and identify any examples of racism
3 that may pass before you in your work?

4 A. Erm, I think there's two aspects to that. One is
5 obviously if there was any direct observation, so if as
6 I'm going about my business, if I either overhear
7 something or observe something or, you know, anything
8 that demonstrates any, you know, discriminatory, racism
9 behaviour, then, you know, I've got a responsibility to
10 intervene straightaway and deal with that. And
11 obviously, that's a responsibility that cuts across all
12 leadership and all line management.

13 So there's a very direct interaction in that
14 respect.

15 And secondly, sort of more broadly, is understanding
16 that that first side is the higher in the ranks you are,
17 the less likely it is you're actually going to directly
18 experience that, because people know you're in the room.
19 And therefore it's about the lived experience of others,
20 and I think that part of our development around equality
21 and diversity is making sure -- and we touched on this
22 before lunch as well -- making sure we listen to people.

23 So I was talking about that in the context of the
24 communities, but equally it applies within the
25 organisation as well, and listening to the lived

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1 experience of people within the organisation that may be
2 subject to experiences, negative experiences like that.
3 And then taking action from a leadership policy position
4 to address -- cultural position, to address that.

5 Q. Do you feel that the training you've had has helped you
6 in terms of -- you've talked about identifying maybe
7 obvious discrimination, racial discrimination, has it
8 helped you to identify more subtle forms of primarily
9 racial discrimination?

10 A. So I -- I think both -- so the training and that second
11 aspect I was talking about. So from a training point of
12 view, yes, more knowledge gives you more knowledge and
13 greater understanding, so -- and we touched on
14 unconscious bias before and that's probably just one
15 example of something that I wouldn't have known if
16 I hadn't had that awareness, that training.

17 But actually, in terms of the lived experiences,
18 when you hear lived experiences, so they've been
19 excluded from a team event, people sitting down and
20 having lunch on the table next to you, not on the table
21 that you're at, so that's a level of subtlety that you
22 wouldn't necessarily pick up. So you could be sitting
23 in that canteen happily eating your lunch and not
24 realise that actually there was some behaviour going on
25 there that felt discriminatory to a black police officer

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1 in the example we're talking about.

2 So unless you listen and have that lived experience,
3 I don't think -- you would have to be -- you know,
4 I don't think many people would pick up on that subtlety
5 that was going on there in terms of discrimination and
6 it's probably that level of -- that level of work that
7 needs to be done, both to understand some of those
8 subtleties that maybe are going on in the organisation
9 and then to make sure that we address that through
10 leadership and so on.

11 Q. And what you're describing, we've heard some evidence
12 about the impact of hearing about real life examples
13 from another witness who talked about the impact that
14 actually hearing or as you're saying listening to real
15 life examples from people who have experienced things,
16 did have an impact and was very powerful training. Does
17 that mirror the experience that you've had?

18 A. Absolutely. So part of the work we're doing around
19 equality and diversity is, so we call them truth to
20 power sessions, where you will have officers that are
21 happy to come forward and to speak about their
22 experiences and speak to some of the more senior
23 leaders, just to get that very lived experience into
24 that -- into the leadership area, to understand some of
25 those subtleties that are going on in the workplace.

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1 And, of course, then the people are listening to them,
2 be able to be empowered to do something. So, of course,
3 that is very powerful when you hear of personal
4 experiences from colleagues.

5 Q. And is that experiences of police officers in relation
6 to discrimination?

7 A. So that's what I'm describing now. I should have maybe
8 said that.

9 Q. No, no --

10 A. So there's one particular -- so Black History Month,
11 which was October, we held one of these sessions, we
12 arranged one for the north commanders, where I was
13 working at that time, and held a session that I'd
14 described and listened to some of those experiences that
15 officers -- that the officers had experienced across the
16 organisation. So, I mean, it's massively powerful.

17 Q. Who is it that organises these truth to power events?

18 A. So it's a combination, so the way that we're trying to
19 improve our whole approach in the organisation is
20 through our people planning structure, so every area of
21 the organisation has a people plan, both at a national
22 level, at a regional level and a divisional command
23 level, which is where I was sitting. And there are
24 regional people plans that all have an equality,
25 diversity and inclusion workstream and then within that

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1 workstream, there are a number of actions that the area
2 should take forward.

3 And in terms of the race sort of area of business,
4 we chose to hold this event during Black History Month,
5 specifically to link it in with that national campaign,
6 and so that, you know, we were better informed and aware
7 as leaders.

8 So that's -- I think actually the question is who
9 organised it? So me and my team and SEMPER Scotland,
10 who I referred to earlier. So SEMPER Scotland were our
11 link in to some of the colleagues that were -- because
12 it's obviously a very -- quite a -- it's a difficult
13 thing for them to do to speak to senior officers about
14 these experiences. So obviously, you want somebody who
15 volunteers to do it and can be supported through it.

16 So SEMPER Scotland provided that side of it. I
17 facilitated the more practical side of it. And,
18 you know, that was the event that was held there.

19 Q. And was that something that you were proactive in
20 initiating or was this something that was being rolled
21 out on a broader than just the area you were working in?

22 A. So truth to power sessions have happened across the
23 organisation in different areas. This specific example
24 I'm talking about was for the north region, so my
25 assistant chief constable, my boss at the time, and my

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1 colleagues at divisional command level. So it was one
2 of the actions I took forward through our sort of EDI
3 people plan.

4 Q. And is it only for senior officers? You mentioned
5 senior officers. Was it only for them?

6 A. So I think the truth to power session is. So it's -- it
7 refers to the earlier part where that direct experience
8 is likely to be less obvious to senior officers, because
9 they're not likely to be -- they're not likely to be in
10 a position where they might directly see or hear some
11 behaviour. And equally, individuals that may portray
12 those behaviours are less likely to do it when there's
13 a senior officer in the room.

14 So this is about listening to the workforce and
15 understanding that dimension. And obviously, the reason
16 it's being given to senior officers is because we should
17 be, you know, actively, proactively trying to improve
18 our organisation and make sure that we're, you know, as
19 good as we can be and keep improving in the equality and
20 diversity space.

21 Q. Given the benefits you've experienced from these events,
22 could you see a place for similar events being rolled
23 out to lower ranks, constables and other members of
24 staff?

25 A. So, again, I'm not a training specialist, so I'm --

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1 caveat what I'm about to say by the fact that I'm not
2 a specialist in the best way to get this across.
3 I think the specifics of truth to power session, you
4 have to think about the person who's actually speaking
5 and the impact.

6 So the whole point is actually that they shouldn't
7 have to keep telling the story. They've told the story
8 to people who should be able to do something about it.
9 That's the nuance of that. But the generality of the
10 point about: could we get -- so, like you can imagine,
11 someone might be prepared to do a video of that lived
12 experience, for example, and then that could be shared
13 as part of that training approach. That's an absolutely
14 sound, you know, thing to do.

15 Q. Is that something that you think could be of benefit to
16 constables and others --

17 A. Yeah, absolutely.

18 Q. - who are maybe not at that level --

19 A. Absolutely.

20 Q. To what extent have you found that the training you've
21 received in these issues, particularly in relation to
22 race discrimination, have been -- have provided you with
23 skills that are then transferable to your day-to-day
24 work?

25 A. So I would say that ... so the equality, diversity and

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1 inclusion progression, if you make progress and
2 understanding in one protected characteristic, it has
3 a knock-on effect across all characteristics. So being
4 inclusive, having a diverse workforce, that is
5 beneficial to everyone. That's -- so it's not -- it's
6 not necessarily about saying, "This is the piece of work
7 we're going to do about race discrimination", it's
8 a broader agenda than that, and the benefits of taking
9 a broader approach to it is that there is consequential
10 benefit across all protected characteristics.

11 So we -- policing has an issue with gender equality,
12 so, you know, there are -- so there is lots of work
13 going on in relation to gender equality in the
14 organisation. That has a beneficial influence and
15 impact across all protected characteristics, including
16 race.

17 So all the work we do -- LGBTI communities; so the
18 work we do with our staff that designate across the
19 LGBTI spectrum, the work we do there has knock-on
20 benefit to race discrimination, and so on.

21 So that's why the language has changed, actually, to
22 "equality, diversity and inclusion" rather than "race
23 discrimination training" or "LGBTI training". It's
24 a broader piece of work, and the consequential benefit
25 is beneficial to -- across the whole organisation.

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1 Q. Thank you.

2 You've talked in your statement about line
3 management responsibility -- paragraphs 54 and 55, if
4 you want to have a look at those -- and you've talked
5 about having line management responsibility has knock-on
6 effects in relation to the training of officers who are
7 beneath you.

8 I'm interested in any real life examples from your
9 own experience that you've had where equality and
10 diversity and inconclusion issues have arisen, in
11 relation to those line management responsibilities that
12 you've had in your career.

13 A. Erm ... so ... I mean, I'll just make sure I'm going to
14 answer the question here, because it plays out in
15 a number of ways.

16 So I suppose there's the proactive responsibility in
17 a line management position. So that -- by that I mean
18 making sure people attend training courses. The
19 leadership build the culture of the team, you know, the
20 role model of you as an individual is actually what is
21 replicated across the team. So at every rank and at
22 every level you're at, you have an individual
23 responsibility. So in a transactional way it's make
24 sure people do their training, make sure -- if there's
25 any, you know, any hint of discrimination then you

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1 intervene at the earliest stage, and so on. So there's
2 some fairly kind of tangible steps you should take.

3 The harder steps, I suppose, is to build -- and
4 actually, as you become more senior in leadership
5 role -- is to build that culture across the whole team,
6 when you don't necessarily have the direct influence.

7 So, in a way, if you're a sergeant with a small
8 team, you can project your standards and your, you know,
9 professional behaviours, it's quite easy to -- it's
10 a direct interaction because it's -- your first line
11 management and you've got that control over the team.
12 And that's actually the key, is to make sure the first
13 line managers are delivering that.

14 As you go into different levels of leadership in the
15 organisation, it's developing that broader culture. So
16 you absolutely still act as a role model, and that's
17 a very powerful -- the person with rank who acts as
18 a role model in the whole equality, diversity and
19 inclusion space is a very powerful sort of tool to
20 progression, because people -- people behave as they
21 see, that's the whole how role models sort of work.

22 But making sure that -- making sure that every layer
23 of the organisation is delivering on that is a real
24 challenge, and that's why -- I mean, there's a whole
25 programme of work that the organisation's doing around

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1 equality, diversity which has many, many strands and it
2 includes training, you know, it includes the awareness
3 raising, it includes leadership training. So it's about
4 reinforcing: what does our code of ethics really mean in
5 practical terms? It's about: what are our professional
6 behaviours and how does that translate? And so on. So
7 it's not --

8 I'm not sure if I've answered the question,
9 actually. Sorry.

10 Q. I think I'd asked you if you could give the Chair any
11 examples of situations which have arisen where you have
12 had to intervene. I'm not asking you to name names or
13 anything.

14 A. No, no. No.

15 Q. I'm just wondering if you can help the Chair with
16 an example that you've come across personally?

17 A. I mean, in my former role, obviously as the divisional
18 commander there are numerous examples of both complaints
19 that are received about officers' conduct, either about
20 the public and/or from other officers, and there are
21 also -- the work that we do, so that truth to power
22 session, I've also done that, for a development day
23 around gender equality.

24 So there are actually, you know, several strands
25 that are coming at you as a divisional commander of

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1 behaviour that isn't appropriate and, depending on what
2 that behaviour is, there's then a response to it.

3 So it's not as straightforward as sitting in
4 a canteen, hearing something inappropriate and being
5 able to intervene. This is a -- you deal with it as
6 an organisation, depending on how that complaint is. So
7 it might -- so in a way, the easy end is if it is
8 a criminal behaviour and then there's a criminal process
9 that initiates. If it's not a criminal behaviour but it
10 might be considered misconduct, then there's
11 a misconduct process that happens. But actually the
12 challenge for the organisation is in the day-to-day
13 management, leadership space.

14 So the extreme examples are almost the easy things
15 to deal with. If somebody is -- and in terms of, yes,
16 I have personal experience where officers have been
17 overtly sexist in their behaviour and that has been
18 reported as a criminal matter through our professional
19 standards department.

20 So there are -- so these things happen, but in a way
21 they are the easy bits to deal with because there are
22 processes and procedures to deal with that, and it's
23 quite right that that should be followed. The harder
24 bit is actually the whole workforce improving their
25 understanding of each other. And I know we're focusing

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1 on race, but this applies equally to any protected
2 characteristic, and indeed, you know, this is about how
3 people interact with each other in the workplace and to
4 generate a diverse team, a well performing team, and so
5 on.

6 So this has, yeah, knock-on implications just
7 organisationally for everything we do, and that's the
8 difficult bit is: how do you -- how do you -- how do you
9 continually improve the cultural processes of the
10 organisation to continually improve as a diverse team
11 and a high performing team, which is what we want the
12 police service to be, and I'm sure the public want the
13 police service to be that as well.

14 Q. So there are different strands, as I understand what
15 you've just said.

16 A. Yeah.

17 Q. There's the, perhaps the obviously criminal behaviour --

18 A. Yeah.

19 Q. -- which can lead to a criminal investigation and
20 perhaps prosecution --

21 A. Yeah.

22 Q. -- at some point.

23 There's training, you've talked about truth to power
24 and various events --

25 A. Yeah.

Transcript of the Sheku Bayoh Inquiry

1 Q. -- training events.

2 How effective would you say are misconduct
3 proceedings in altering the behaviour and altering the
4 mindset of officers who maybe are not valuing or not
5 considering protected characteristics?

6 A. So, so there is a -- there is a programme of work
7 ongoing at the moment around the outcomes of misconduct
8 hearings. So there is a process that is followed and
9 officers may end up in a misconduct hearing, and there
10 are -- there are, you know, levels of warning or so on
11 that come out of a misconduct hearing. What we haven't
12 done traditionally as an organisation is publicise them,
13 probably for obvious reasons in terms of the
14 confidentiality of the individual, but in terms of the
15 learning that can come out of that and also -- I think
16 the point that's been alluded to -- it's almost like the
17 "This is the standard, this is -- somebody's failed to
18 achieve this standard" and so on, and using it as
19 an organisational learning activity. That's one of the
20 programmes of work that we've got ongoing at the moment
21 at the organisation, to try and use that misconduct
22 information more constructively in a -- I suppose,
23 a behavioural change, you know, type approach.

24 Q. Who is leading on that?

25 A. These are national pieces of work, so ultimately

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1 DCC Taylor is our strategic lead for equality, diversity
2 and inclusion.

3 Q. So we may hear more --

4 A. So, yeah.

5 Q. -- in relation to that.

6 There's a number of paragraphs in your statement
7 where you've talked about race, and I wanted to ask you
8 about some of those. I don't need to bring them all up
9 on the screen --

10 A. Okay.

11 Q. -- but I'll let you look at them if you wish.

12 88, you say:

13 "I can't remember if they said the deceased was
14 black or not. It makes no difference to me carrying out
15 my role as a PIM."

16 92:

17 "I can't remember when I was told the deceased was
18 black. I wouldn't have assumed any colour. It doesn't
19 make any difference to me."

20 94:

21 "Race is potentially important from a critical
22 incident perspective."

23 And 279:

24 "There was no discussion in the PIM suite about the
25 incident, let alone about the race aspect."

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1 Just reflecting on those comments about race not
2 making any difference, do you see any tension between
3 the elements of your statement where you talk about the
4 significance of the Stephen Lawrence Inquiry generally
5 and the fact that on a number of occasions in relation
6 to the death of Sheku Bayoh you're talking about the
7 fact it really doesn't make any difference that he was
8 black?

9 A. So this -- just to be clear, this relates to specific
10 questions I'd been asked, which is why --

11 Q. Yes, absolutely.

12 A. -- they appear in this Inquiry statement.

13 I suppose what I'm trying to put here is I'm trying
14 to say this in a positive way, absolutely taking
15 cognisance of the other aspects that we've discussed,
16 but -- so probably answer the bit -- well, probably
17 answer them in the three parts that you've alluded to
18 there in reverse order.

19 So there was no conversation in the PIM suite by any
20 of the officers in relation to race, as I've stated, and
21 that's --

22 Q. You've said that.

23 A. -- and I've -- and that's documented, or the absence of
24 it being documented, and I've said that in my statements
25 and so on, so that wasn't being discussed. The incident

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1 wasn't, and the race wasn't.

2 The bit about it not being relevant to the
3 post-incident procedure is because there is a documented
4 SOP procedure that has been equality impact assessed,
5 and that is the process that I was following. And
6 remember, I'm independent to the investigation. So the
7 investigation is going on in this pillar over here, my
8 role is to facilitate that process, but the subject of
9 the investigation and the matter of the investigation
10 doesn't define that process. There's nothing in there
11 that says it's dependent on the individual that is
12 deceased. It's not -- so it's not relevant in
13 a positive way, it's not relevant in a negative way,
14 which I can understand how that could be interpreted
15 negatively, but it's meant to say: here's a process that
16 my responsibility is to follow and actually the
17 protected characteristics of the individual in the
18 tragedy is not relevant to that process being carried
19 through.

20 Where I think it is relevant and what I've tried to
21 call out there is the critical incident nature, so it's
22 absolutely relevant from a critical incident point of
23 view, and before lunch we touched on how that grew --
24 sorry, that evolved from the Stephen Lawrence Inquiry,
25 the MacPherson report, critical incident management,

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1 SOPs, training, the fact it was declared a critical
2 incident. Of course it's massively relevant to that and
3 the impact that this will have on the family, the impact
4 this will have on the community, how are we going to
5 manage this from a policing point of view. I mean, it's
6 massively influential in that.

7 But from a -- and I can understand how it sounds
8 quite cold, but from a post-incident management point of
9 view that's not my responsibility. My responsibility is
10 to try and deliver this process as effectively as I can
11 in the circumstances we've got, and we've obviously gone
12 through the successes and the learning that's come out
13 of that whole process as a result of trying to deliver
14 it.

15 Q. So it might be relevant in other areas that are being
16 progressed, but in terms of post-incident management in
17 the circumstances that you found yourself in as manager
18 that day --

19 A. Yeah.

20 Q. -- and where all the officers are white, it wasn't
21 relevant to the work that you were doing and not
22 relevant?

23 A. No.

24 Q. So if we've heard that the male who died had died after
25 police contact and he was dead and he was black, and the

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1 media would be very interested in that --

2 A. Yeah.

3 Q. -- is that the sort of secondary way in which the fact
4 that the male who died was black could impact on the
5 welfare of the officers?

6 A. Yeah, absolutely. So the media and the interaction with
7 the media is a key component of critical incident
8 management and critical incident management SOP, and
9 you're right, we've touched on media -- yesterday,
10 I think it was -- around, well, it's more about
11 informing the officers of what the media picture's going
12 to be as opposed to them having any influence over it,
13 but there's that interaction.

14 And potentially there is, depending on how the
15 community are responding -- so if we imagined there was
16 still a police house attached to the police office and
17 one of the police officers lived next door to the police
18 office, clearly if there's concerns in the community
19 that are escalating to, let's say, some sort of protest
20 or public order or whatever, then there might be
21 a direct physical security issue which would then come
22 to the PIM to try and resolve in terms of: well, what
23 are we going to do about that situation?

24 So there absolutely is a consequence but those
25 consequences could play out in a number of ways, if

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1 that's helpful.

2 Q. Thank you.

3 Can I ask you to look at paragraph 281 of your
4 Inquiry statement, please. It may be that you've
5 already touched on this. You say:

6 "Police officers in my experience [the second line]
7 are normally the subject of racial abuse rather than
8 being participants. I know of black colleagues being
9 racially abused. I know of English officers being
10 abused because of their accents. It's normally members
11 of the public towards police not the other way around in
12 my experience."

13 When you say, "I know of black colleagues being
14 racially abused", is that partly a reflection of the
15 truth to power events that you --

16 A. So when I was -- when I was asked this question and
17 answered it with this statement, I was actually
18 referring more to the engagement with the public. So if
19 I get asked about discrimination against police -- or
20 discrimination by police officers, the first thing that
21 I think of is actually the racial -- sorry, the abuse,
22 racial and/or other protected characteristics, but the
23 racial abuse that police officers receive going about
24 their duty by members of the public.

25 Q. So when you --

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1 A. So that's --

2 Q. -- said, "I know of black colleagues being racially
3 abused", was that by members of the public?

4 A. Yes.

5 Q. Rather than by other colleagues?

6 A. Yes. Yes.

7 Q. And then at 282 you say you're not aware of any racist
8 views, racist jokes or racist comments of police
9 officers. So that's comments by police officers?

10 A. Yeah.

11 Q. Did you see any of the evidence of Colin Robson --

12 A. I haven't, no.

13 Q. -- last week?

14 A. No.

15 Q. Did you see any of the subsequent publicity about it or
16 any --

17 A. I haven't.

18 Q. No. I asked about a case that had played out in court
19 from 2019 where a group of ten officers were potentially
20 subject to misconduct proceedings by a Chief Constable,
21 a CC, and they took legal action to pursue an Article 8
22 right to privacy argument in relation to WhatsApp
23 messages that had been shared amongst them.

24 As I understand it, there were two groups, two
25 WhatsApp groups that were sharing messages. They were

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1 described by Police Scotland -- by counsel acting on
2 behalf of Police Scotland -- as blatantly sexist,
3 degrading, racist, antisemitic, homophobic and mocking
4 of disability.

5 Were you not aware of any of that going on in the
6 organisation?

7 A. Not the detail of that, no.

8 Q. But did you know anything about --

9 A. So --

10 Q. -- the situation?

11 A. I think you -- is this in relation to probationers?

12 Q. Well, there were ten officers, that's what it says in
13 the decision.

14 A. So I think this is a good example of where a misconduct
15 situation doesn't get widely used as a learning
16 opportunity for the organisation. So if it is -- so
17 there was media attention around some probationers and
18 WhatsApp groups, I am making an assumption it's one and
19 the same thing, but it may not be. So ... I mean,
20 I think this is a good example of where things can go on
21 in the organisation -- remember it's 20,000 people
22 strong across the whole of Scotland -- things can go on
23 in the organisation, and because of -- that sounds like
24 it would have gone straight into either a criminal or
25 a misconduct situation. The detail and -- the detail

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1 that you've actually shared with me is a greater level
2 of than I've been briefed on as an officer in
3 Police Scotland.

4 So I think that's a good example of where, you know,
5 we need to share that to demonstrate, you know, that
6 wider learning.

7 Q. Could you see the benefit to officers across
8 Police Scotland of sharing learning from these real life
9 examples?

10 A. Yeah, absolutely. Absolutely.

11 Q. And --

12 A. And it's probably worth saying and -- you know, that
13 behaviour that you've described should absolutely -- and
14 I probably don't need to say this -- but should
15 absolutely not be tolerated, and I'm sure isn't
16 tolerated in that particular example, by
17 Police Scotland. That's -- that sounds horrific and
18 I hope that, you know, the due process was followed in
19 relation to that, because that's not part of the
20 organisation that I want to belong to.

21 Q. Just to be clear, Police Scotland had pursued this as
22 misconduct proceedings, and continued the pursuit of
23 that through a judicial review and then to the
24 Inner House, and resisted an application to appeal to
25 the Supreme Court.

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1 You've talked and we've talked today about your
2 awareness and the impact of the Lawrence Inquiry and the
3 MacPherson report. Do you have awareness of the Chhokar
4 situation?

5 A. Yes, but not to the same degree of knowledge.

6 Q. Is this another example where perhaps you could benefit
7 from more knowledge and awareness of events going on in
8 Scotland, real life examples in Scotland of racism?

9 A. Yeah, so this is -- this forms part of the same
10 conversation we had before lunch, that you have -- you
11 have moments in time when there are opportunities for
12 real learning, and the organisation needs to decide how
13 best to learn those lessons and, you know, as we've
14 discussed, there are a whole variety of things that
15 Police Scotland have done in my service around learning
16 the lessons and increasing the understanding and
17 education of officers, around diversity and inclusion
18 matters, and that will continue, I'm sure, you know,
19 forever more.

20 So -- but every example, wherever there's
21 an example, of course there's an opportunity for
22 learning. And then, I think as you're alluding to, it's
23 about how we -- you know, what process do we have in
24 place to carry out that learning.

25 It is probably worth saying that, you know,

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1 Police Scotland has got a range of programmes that it's
2 currently undertaking around equality, diversity and
3 inclusion and -- you know, which includes the Moodle
4 package that you spoke about earlier. But actually
5 there's a broader, you know, cultural shift, leadership
6 shift that's going on. So there's a values campaign
7 that is ongoing now and that builds on, you know, the
8 values campaign that happened when we became
9 Police Scotland and, you know, this is continuous
10 improvement. Right? This is continuous improvement by
11 an organisation. So all the examples you're giving in
12 terms of: should we learn from that? Well, hopefully we
13 have organisationally learned from it. Could it have
14 been shared wider in particular examples? Well,
15 possibly. And it's -- so it's about us as
16 an organisation just continually learning and where
17 there is good practice in other organisations or from
18 other colleagues and partners, then we should embrace
19 that and try and build it into our learning and
20 development.

21 I'm speaking on behalf of the organisation now,
22 you know, as a senior police officer as opposed to my
23 role on the day of the incident as the post-incident
24 manager.

25 Q. Yes, of course.

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1 A. So just --

2 Q. If you're not comfortable --

3 A. Some of these are the opinions of Conrad Trickett,
4 Chief Superintendent as opposed to me being in
5 a position to speak on behalf of Police Scotland,
6 I would say.

7 Q. I've absolutely no doubt that we will hear further
8 evidence --

9 A. Yes, indeed.

10 Q. -- about this and what Police Scotland are doing in
11 relation to --

12 A. Yeah.

13 Q. -- the ongoing progress here.

14 Can I just ask you one final thing about whether you
15 have, and to what extent you have, awareness of two
16 reports, two reviews carried out by
17 Dame Elish Angiolini?

18 A. The complaints handling reviews, yes.

19 Q. And deaths in --

20 A. Yes, yes.

21 Q. Do you have awareness of that? Have you had training on
22 that? Or is that something else that's wrapped up in
23 the work that's being done?

24 A. So I think some of the recommendations coming out of
25 that review are directly feeding into the values

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1 campaign that I've been describing. There's the
2 standards of professional behaviour that comes out of
3 some of that work, which is part of that, that wider
4 organisation -- so there is a link between the learning
5 and the campaign that's ongoing and, as I say, that's --
6 there's -- the professional standards part of
7 Police Scotland are leading on that. They lead on the
8 recommendations from that review and feed that into
9 the -- into the wider campaigns.

10 But I am aware of that.

11 Q. Can I go back for a moment? If the WhatsApp messages
12 case that I mentioned to you earlier involved
13 probationers, is that something that you wouldn't hear
14 about because they were probationers rather than
15 officers?

16 A. No, I don't think that's the key --

17 Q. That's not the key.

18 A. That's not the key aspect here.

19 Q. All right.

20 A. It's more that broader learning from misconduct.

21 MS GRAHAME: Thank you. Could you give me one moment,
22 please?

23 THE WITNESS: Certainly.

24 (Pause)

25 MS GRAHAME: Thank you very much, I've completed.

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1 LORD BRACADALE: Thank you.

2 I'll come to Mr Hamilton in a moment, but are there
3 any other Rule 9? Mr Hamilton, are you likely to have
4 any?

5 (Pause)

6 I'll give you an opportunity after I've heard from
7 Ms Mitchell.

8 Chief Superintendent, would you retire to the
9 witness room while I hear a submission, please.

10 (In the absence of the witness)

11 LORD BRACADALE: Yes, Ms Mitchell.

12 Submission by MS MITCHELL

13 MS MITCHELL: Sir, I'm obliged to Senior Counsel to the
14 Inquiry and all the questions that we asked in our
15 Rule 9 were put forward to this witness, but something
16 arose as a result of the questioning which doesn't
17 appear otherwise in his statements about his training on
18 unconscious bias.

19 I think this is the first police officer that
20 explain that he has had training in unconscious bias,
21 and what he gave was, I think if we remember -- perhaps
22 quite appropriately on International Women's Day -- two
23 examples of a pilot and a consultant doctor, and the
24 unconscious bias being that people would automatically
25 assume that those were men.

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1 What I would like to ask this witness was: when the
2 unconscious bias training was going on, were they given
3 examples in respect of race and, if so, what sort of
4 examples were provided? This witness said that it was
5 important to guard against unconscious bias when we see
6 it with how the police react with people in the
7 community, and that is clearly an issue in the present
8 case as to how the police officers reacted when they saw
9 Mr Bayoh, and the Inquiry has already heard questions
10 about the way he was being described, physically
11 described.

12 So it's to see, with this witness, whether or not
13 that's the sort of thing that's being asked about when
14 this training is happening.

15 LORD BRACADALE: Yes. Is that the only matter?

16 MS MITCHELL: That's the only matter.

17 LORD BRACADALE: Very well, I'll allow you to pursue that.

18 Can we have the witness back, please.

19 (Pause)

20 I'm not sure if there's anybody managing the
21 witness.

22 (Pause)

23 (In the presence of the witness)

24 LORD BRACADALE: Chief Superintendent, Ms Mitchell KC

25 represents the Bayoh families, there's one matter that

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1 she wished to explore with you.

2 Ms Mitchell.

3 THE WITNESS: Thank you.

4 Questions from MS MITCHELL

5 MS MITCHELL: Thank you.

6 It's just one issue, and it's really arising from
7 the discussion that you had with Senior Counsel to the
8 Inquiry about your training on unconscious bias.

9 A. Okay.

10 Q. And you -- it's really to explore a little bit what the
11 training was about --

12 A. Okay.

13 Q. -- and how that was done with you. Presumably they
14 discussed with you what unconscious bias is?

15 A. Yeah.

16 Q. Did they provide examples of unconscious bias? You gave
17 two --

18 A. Yeah.

19 Q. -- in the examples that you provided, we'll remember the
20 pilot and the consultant. Did they provide you with
21 different examples?

22 A. It's probably worth just giving you some context around
23 that, so in terms of -- it's not a formal training
24 course that I was referring to. So if that's what
25 people thought, that's not the case.

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1 What the organisation has done is create a number of
2 what we've called inclusion moments, so across a range
3 of topics that broadly are around behaviours and
4 equality, diversity issues and the inclusion moments is
5 one of them -- sorry, unconscious bias is one of them.
6 And the purpose of them is a sort of a five- or
7 ten-minute, a few PowerPoint slides, maybe a link to
8 a video or two, and it's for -- the leadership at
9 whatever level in the organisation can take these
10 products that are available, you know, electronically,
11 take these products and then sit with their team and
12 play the product, and it sort of leads you through a bit
13 of education around it, and then leads you into a sort
14 of a -- well, the individual leads a sort of facilitated
15 discussion.

16 So I would describe it more as an awareness raising
17 sort of opportunity rather than a formal training
18 opportunity. So it won't be recorded in my training
19 record, for example. It's that kind of thing.

20 In terms of the specifics of the ask there --

21 Q. Well, can I ask --

22 A. Sorry.

23 Q. -- did you do that with your team?

24 A. Yeah, absolutely, sorry, yes.

25 Q. In doing that with your team, did you discuss particular

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1 different examples?

2 A. Yeah. So I've done it twice now with the -- in the last
3 sort of two roles that I've been in. So I did it with
4 my senior leadership team in the Highlands and Islands
5 division, and also in my current role at the moment.

6 So, sorry, what was the second --

7 Q. You've given us two examples --

8 A. Yeah.

9 Q. -- you've given us where somebody might have
10 a preconceived view about what gender a pilot might
11 be --

12 A. Yeah.

13 Q. -- or what gender a consultant might be.

14 A. Yeah.

15 Q. What I was wondering was: when we're exploring these and
16 in the discussions that you've had, in each of the
17 two --

18 A. Yeah.

19 Q. -- meetings that you've had, was race discussed as one
20 of these and, if so, what type of examples were
21 discussed?

22 A. So it's not -- as far as I recall, it's not a specific
23 example within the inclusion moment package, but I would
24 want to be 100% sure on that, it would be worth looking
25 back through the package just to make sure it's not

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1 something I'd missed.

2 In terms of the wider discussion -- so, actually,
3 just go back to the two examples that I gave. So
4 although I referenced it as being -- well, I think when
5 I said the example, not just was I referencing the male
6 but white male as well, so in the sense that there is
7 that -- the race element of that, that the unconscious
8 bias is around a white male, so you've got both the
9 gender and the race side of that.

10 In terms of what the follow-on discussion was, it's
11 more -- the discussion was more around understanding
12 that this is a thing, understanding that we all have
13 unconscious bias, and then -- and then understanding how
14 you deal with that -- it's probably not the right way --
15 but how you use that and then how you adopt your
16 communication style or your understanding and so on.

17 So the discussion I had around, you know, that bit
18 about if there's a problem and you're looking at the
19 problem and you're seeing a solution, you just need to
20 be conscious that the solution you're looking at might
21 be because of your unconscious bias, and that's why it's
22 good to bring in other individuals, and builds on the
23 benefit of a diverse team because, you know, the greater
24 the diversity -- if you want to link it back to
25 unconscious bias, different people with different lived

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1 experience have different unconscious bias, and
2 therefore if you have a diverse team you get a different
3 perspective on the same problem, and that's how you
4 would overcome the unconscious bias taking you down
5 a particular path.

6 Q. Did you, in either of these two examples, discuss
7 examples of unconscious bias?

8 A. Not over and above the examples that are provided in the
9 input, the sort of video context, no.

10 Q. And you can't remember whether or not any of those
11 related to race?

12 A. So the way it worked was more around -- so like the
13 question that I asked, so of course it depends on how
14 you answer that question as an individual. So I'm
15 answering the question as a -- and as others do, is as
16 a -- that's in my head that's a white male, so somebody
17 else might say, "Well, in my head that's an Asian
18 female". So it's not -- it depends how you're answering
19 the question. Does that make sense?

20 Q. Yes. Do you think it would be helpful, in these sorts
21 of discussions that you have, to explore generally held
22 unconscious bias that people might have?

23 A. Yes, and there probably was some content around that,
24 I just can't recall the detail of it for the benefit of
25 the Chair today.

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1 Q. Do you think it would assist if unconscious bias was
2 discussed by first identifying what people's biases
3 might be?

4 A. So, yes ... so I'm not speaking here as a training
5 provider around unconscious bias or race material.

6 Q. We appreciate that.

7 A. So what you're saying are sound, very sensible ideas,
8 but I don't know if that has already been part of the
9 thinking in terms of the development of the product or
10 not.

11 Q. I'm just asking you perhaps then to reflect and perhaps
12 give us your comment on this: if you're being trained on
13 unconscious bias --

14 A. Yeah.

15 Q. -- but the root of the issue, namely the bias, has
16 simply been left to be identified personally by the
17 officer, does that not leave the risk of areas of
18 unconscious bias not being touched by that training?

19 A. So it does. I think I've used the inclusion moment as
20 an example of one of the things the organisation is
21 doing, but it can't -- it can't answer the whole
22 organisational challenge around discrimination. So
23 I think the more formal education bit that we've touched
24 on as well, you know, today and yesterday, around
25 actually talking about discrimination, understanding the

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1 protected characteristics and the Equality Act and so
2 on, so all that more formal training is still absolutely
3 valid. And I think that would be the place that you
4 would -- you know, you would tackle some of the issues
5 you're referring to in terms of people's bias -- well,
6 and the law in relation to discrimination and so on.

7 So there's absolutely a role for the formal training
8 side. The reason I was using the inclusion moment was
9 just an example of something that, you know,
10 organisationally, we're trying to do. But that's not --
11 that's a piece of the jigsaw as opposed to the entirety
12 of it.

13 Q. When you did the training, and you reflected upon what
14 it was, you were having that internal monologue about
15 what your unconscious bias might be, did you consider
16 the issue of race?

17 A. Erm ... only to the extent that I've already portrayed
18 in those examples, the first thought is white male, the
19 first thought is not black male, for example.

20 Q. But you didn't explore personally any other types of
21 bias, unconscious bias, that might be held by people in
22 relation to race?

23 A. No.

24 LORD BRACADALE: Mr Hamilton, is there anything arising?

25 Thank you.

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1 Chief Superintendent Trickett, thank you very much
2 for coming to give evidence. I shall be adjourning in
3 a moment for the day, and you'll then be free to go.

4 THE WITNESS: Thank you, sir.

5 LORD BRACADALE: 10 o'clock tomorrow morning.

6 (2.53 pm)

7 (The hearing adjourned until 10 am
8 on Thursday, 9 March 2023)

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Transcript of the Sheku Bayoh Inquiry

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CHIEF SUPERINTENDENT CONRAD TRICKETT2

(continued)

Questions from MS GRAHAME (continued)2

Submission by MS MITCHELL136

Questions from MS MITCHELL138

Transcript of the Sheku Bayoh Inquiry

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