

Transcript of the Sheku Bayoh Inquiry

Friday, 1 September 2023

(10.00 am)

(Delay in proceedings)

(10.04 am)

DETECTIVE CHIEF SUPERINTENDENT LESLEY BOAL (RTD) (continued)

Questions from MS GRAHAME (continued)

LORD BRACADALE: Good morning Ms Boal.

Ms Grahame.

MS GRAHAME: Thank you very much. Good morning.

A. Good morning.

Q. I'd like to continue to ask you some questions about matters that we addressed yesterday afternoon, we were talking about the hypotheses, and the possibility about race being a factor, I was calling it the race hypothesis by the end of yesterday.

Can I ask you, bearing in mind, as I understand it, the importance of not excluding or ruling out prematurely any relevant investigative hypotheses, and that included the race hypothesis we were talking about yesterday, alleged -- potential criminality on the part of the police, what are the implications in relation to the status of the officers? If you are not ruling out the hypothesis about potential criminality, we've heard some evidence about the status of the officers and whether witness, whether suspect.

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- 1 A. Yes.
- 2 Q. I am interested in any -- can you help us understand
3 that about the implications, if these hypotheses are
4 continuing?
- 5 A. Well, I suppose in terms of a status of an individual
6 being a suspect, you have to have reasonable grounds to
7 suspect that a crime has been committed, and reasonable
8 grounds to suspect that the person is responsible for
9 those grounds, and reasonable suspicion is higher than
10 a possibility.
- 11 Q. Right. So in the absence of evidence that would give
12 rise to a reasonable suspicion --
- 13 A. Yes.
- 14 Q. -- would the witness remain as a -- would the person,
15 perhaps the officer, remain as a witness rather than as
16 a suspect?
- 17 A. Yes. Sorry, can I just say I have got Garry McEwan's
18 folder, not my own.
- 19 Q. Oh, dear. Thank you for pointing that out. Let's just
20 get your folder back. (Handed).
- 21 A. Thank you.
- 22 Q. Sorry about that. That is the first time it has
23 happened, in my knowledge.
- 24 A. I was getting a bit confused there.
- 25 Q. Thank you. We have heard previous evidence that people

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1 remain as a witness until there is a change to the
2 status, and perhaps there is a reasonable suspicion that
3 they've engaged in criminality?

4 A. Yes.

5 Q. Is that fair to say?

6 A. Yes.

7 Q. Does that impact -- the fact that the position may
8 change and they may become suspects if there becomes
9 a reasonable view that they may have engaged in
10 criminality, does that impact on the efficacy of the
11 investigation?

12 A. When somebody is -- when the --

13 Q. The fact they are -- they are a witness, they are not
14 a suspect, but that position may change in the future.
15 Does that have an impact on the investigation and how it
16 is conducted?

17 A. Yes, because you are focusing then on that individual
18 and the circumstances around the crime that you have
19 reasonable cause to suspect has been committed.

20 Q. Before they become a suspect --

21 A. Yes.

22 Q. -- does it impact on the investigation, the fact that
23 positions might change?

24 A. You have to be conscious of the fact, when you then
25 record that somebody's status has changed and why their

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- 1 status has changed. Is that ...?
- 2 Q. Thank you, yes. Who decides the status of
3 an eyewitness, a key witness, a possible police officer,
4 who would decide status?
- 5 A. Well, the ultimate decision would be taken by the SIO.
- 6 Q. If there's a direction or an indication from the Crown
7 as to a person's status, does that have an impact?
- 8 A. Yes.
- 9 Q. What would that impact be?
- 10 A. Well, I have never been in that position, so I'm just
11 presuming that there would be a discussion between the
12 SIO and Crown Office and Procurator Fiscal Service as to
13 the evidence that was available and there might be a bit
14 of differing of views in terms of the amount of evidence
15 available to change that individual's status from
16 witness to suspect. I would probably say in that
17 circumstance, if the Crown Office and Procurator Fiscal
18 had all the information that the SIO had, and it was
19 a difference of opinion, I would probably think the
20 Crown Office and Procurator Fiscal's view would be
21 accepted.
- 22 Q. Would it be -- would the Crown's view be paramount on
23 the question of status?
- 24 A. Yes, because I would say they are responsible for the
25 investigation of crime and death in Scotland.

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1 Q. Thank you. If a view was expressed by PIRC, would that
2 be -- would the position differ compared to the position
3 of the Crown~... if they have given a view on the status
4 of an individual, either witness or suspect?

5 A. Are we talking about their -- their position in relation
6 to the police?

7 Q. Yes. That is what I'm interested in.

8 A. Again, I have never been in this position before so I am
9 just coming from it as a common sense viewpoint, is that
10 if they have been instructed by the Crown -- COPFS to
11 lead an investigation, and they had a discussion with
12 the police at that point, the SIO, there may be
13 a difference of opinion, you would have to ensure that
14 PIRC had all the relevant information to allow them to
15 make that decision.

16 But again, if PIRC were of the opinion that a person
17 was a suspect, then they would be the final
18 decision-maker because they are -- I call it SIO, they
19 are leading the investigation. It's therefore for the
20 person who is leading the investigation to make the
21 decision and then justify the rationale behind that
22 decision.

23 Q. That would be the position, would it, if they decided
24 a person was a witness, not a suspect?

25 A. Yes, I would say so. As long as they had all --

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1 I suppose it's a bit about to make a decision you have
2 to be -- all the information available has to be
3 considered by them.

4 Q. What sort of information is necessary to consider the
5 question of status?

6 A. I suppose eyewitness testimony, it could be CCTV
7 evidence. It's the whole package, I suppose, that
8 you've got at that point, that somebody would consider
9 to say: we have at this stage got reasonable cause to
10 suspect a crime has been committed and that that person
11 may be responsible.

12 Q. So eyewitness statements would be necessary, would they,
13 to really give a clear -- give you the necessary
14 information to allow you to make a decision about
15 status?

16 A. I think that would be very helpful but I said there
17 might be other evidence available, like CCTV or ... yes.

18 Q. In the absence of CCTV, would you expect decisions about
19 status to be taken at an early stage prior to all of the
20 eyewitness statements being taken?

21 A. So without CCTV and with no witness statements?

22 Q. Or no -- yes, no eyewitness statements.

23 A. I'm trying to think of circumstances where you had
24 limited evidence or information to change a person's
25 status. I suppose it is ...

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- 1 Q. Maybe it is easier if we talk about this situation. In
2 the absence of statements from the police officers who
3 attended the scene at Hayfield Road, do you have any
4 views about whether a view on status of those officers
5 could be taken?
- 6 A. So if you didn't have statements from the officers at
7 Hayfield Road, if you didn't have statements from
8 independent eyewitnesses, if you didn't have any CCTV,
9 I'm sort of struggling to see how you would have
10 reasonable cause -- you know, at that sort of level, you
11 might -- it might be a possibility but I'm struggling on
12 these circumstances to think how you -- how a person
13 could be suspected of committing a crime solely by the
14 knowledge of the circumstances at hand, through Airwaves
15 messages or information third-hand that may or may not
16 have come from the officers.
- 17 Q. Would you expect questions about status of the officers
18 to be delayed until you had their statements?
- 19 A. No. It's about what information you have at that
20 particular point. So you wouldn't delay a status of
21 an officer just because you didn't have their statement.
22 You are not -- it's not -- that wouldn't be appropriate.
- 23 Q. But you would expect at the least eyewitness statements
24 to be available if there is no police officer statements
25 would you expect eyewitness statements to be available

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1 before a decision on status was made?

2 A. You would have to have some sort of information or
3 evidence that a crime had been committed and that those
4 individuals were -- may be responsible for that crime.

5 Q. Or equally eyewitness statements saying no crime had
6 been committed -- that would allow you to form the view
7 that no crime had been committed?

8 A. Yes.

9 Q. If you wished to say that the officers were simply
10 witnesses?

11 A. Mm-hm. Yes.

12 Q. Thank you.

13 Given what we discussed yesterday about
14 the importance of early accounts, initial accounts,
15 basic facts, that sort of level of key information,
16 given the importance of that for the investigation from
17 the police officers who attended Hayfield Road, and
18 thinking about the role of post-incident management --
19 and we discussed Conrad Trickett being the post-incident
20 management manager yesterday -- can you help me
21 understand what are the objectives of the PIM procedure?
22 Is that meant to serve simply the well-being of the
23 officers, or is it also designed to serve the interests
24 of the investigation itself?

25 A. So my quite basic knowledge of the PIM process after

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1 reading pre-read material for a course attend would be
2 that it would be both, it would help to facilitate the
3 investigation in terms of their contact with the
4 officers, and also deal with the welfare needs of the
5 officers. So it's a bit of both.

6 But I would have to say, and maybe it's passage of
7 time and, you know, eight years ago, my recollection of
8 what was the PIM process, which my understanding at the
9 time, it was for firearms officers and this hadn't been
10 declared a firearms incident, or it wasn't involving the
11 discharge of a firearm, a traditional firearm, was that
12 the PIM process to me, looking back on it, was more
13 about the welfare side. And I was reminded when
14 I looked at the minutes when I was giving my statement,
15 even in the Gold meetings, which I can't recall --
16 I don't know Conrad Trickett, so I can't recall him
17 being there, but it was under the heading of welfare.
18 So to me the PIM process that was put in place had sort
19 of been adapted, and it was more around welfare as
20 opposed to what is probably put in place or what is put
21 in place for a firearms incident.

22 Q. So more about the welfare, less about the interests of
23 the investigation itself?

24 A. Looking back on it, and I can only think about what
25 I remember from my experience was it was more really

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1 about the welfare side.

2 Q. We certainly heard from Conrad Trickett that they did
3 not obtain initial accounts or basic facts or any
4 initial statements to any extent at all. Is that
5 the type of thing that would assist the investigation
6 rather than being focused on the welfare?

7 A. Yes.

8 Q. Can you --

9 A. Sorry, I was just going to say I think -- I don't think
10 if -- I don't think if an officer is a suspect, that
11 they go into the PIM process as well. So it's --

12 Q. We heard that evidence from Conrad Trickett.

13 A. Yes.

14 Q. As I recall his evidence, if someone is a suspect, they
15 are removed from that PIM process.

16 A. Yes.

17 Q. Yes. That was explained to the Chair. Thank you.

18 What is the impact or what was the impact of the
19 officers' refusal to provide operational statements,
20 initial accounts, basic facts -- those weren't
21 requested -- what was the impact of that on the
22 investigation in practical terms?

23 A. Well, I can only speak to that initial first day
24 carrying out fast-track actions, not the wider
25 forensic -- wider investigation strategy that would

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1 naturally follow after that. But it was, for me -- and
2 you know, I wasn't -- I didn't have the detail that
3 Pat Campbell or others had, it was a lack of information
4 as to exactly the actions of the officers. So there may
5 have been officers -- I don't know, there may have been
6 officers in the PIM process that actually had not been
7 involved in the physical restraint.

8 In terms of -- I know that we are aware that batons
9 had been -- or a baton or batons, I can't remember, had
10 been used and CS had been used, but in terms of the
11 physical restraint there was no understanding of exactly
12 what had happened. So, you know, at the very early
13 stages I think that would have been helpful in terms of
14 that development of investigation strategies and the
15 provision of that initial information as part of
16 fast-tracked actions.

17 Q. Thank you. You explained to us yesterday about the
18 background you had in Professional Standards, and
19 Counter Corruption and the sort of new Professional
20 Standards department. Can you help me understand the
21 extent to which the officers refused to provide initial
22 statements, and we have also heard evidence that they
23 did not complete forms, use of force forms, use of spray
24 forms, many did not complete notebooks, that type of
25 thing. Is that the type of thing that can be addressed

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1 by disciplinary action or misconduct proceedings, the
2 failure to complete paperwork after an incident?

3 A. The failure to complete paperwork, I suppose it -- the
4 failure to complete paperwork absolutely could be
5 considered under misconduct. That is not to say that it
6 would be decided that their conduct was wrong, because
7 in the circumstances that would be taken into account as
8 well, if there was a reasonable explanation why they
9 didn't.

10 In terms of the failure to give statements, that
11 again perhaps would be considered, and I have never been
12 in this position before but I suppose the legal advice
13 provided to the officers may be -- or would be
14 considered during that misconduct initial assessment.

15 Q. Is that the type of question that could be considered by
16 what is now the Professional Standards department?

17 A. Yes.

18 Q. So the failures to complete paperwork and perhaps the
19 explanations for those failures to complete paperwork?

20 A. Yes.

21 Q. Is that something that a detective inspector would
22 consider or would it -- are there different people in
23 Professional Standards that would deal with these sorts
24 of issues?

25 A. So Professional Standards is not part of the criminal

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1 investigation department, so I don't think the
2 Professional Standards staff are detective officers.
3 And my understanding would be that an initial
4 consideration of potential misconduct issues would be --
5 would definitely sit within Professional Standards and
6 there would be either discussion with the Deputy
7 Chief Constable or somebody who they had designated --
8 or he or she had designated in terms of that, whether
9 there was to be an initial investigation or not. I'm
10 not an expert in -- I'm not an expert in anything but
11 I am definitely not an expert in complaints and conduct,
12 that would be something Craig Blackhall would be able to
13 delve into deeper.

14 Q. Thank you. Can I ask one more question just to see if
15 you do know the answer to this?

16 A. Yes, okay.

17 Q. How are -- if there was an issue about failure to
18 complete paperwork, how would that be drawn to the
19 attention of the Professional Standards department?

20 A. Either through line management of the officers
21 themselves or through information that the investigation
22 had to then refer that to Professional Standards.

23 Q. We've heard some evidence that a line manager for
24 a constable in a response team would be the sergeant, is
25 that correct?

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- 1 A. The immediate line management would be the sergeant.
2 However, the person who has overall responsibility would
3 be the shift, as I would call it, duty inspector or the
4 shift inspector. And I think in Fife, because of all
5 these different legacy terms, in Fife I think they call
6 them the police ...
- 7 Q. Investigation officer --
- 8 A. No, incident officer, PIO.
- 9 Q. PIO, yes, we've heard about the PIO. He was on that
10 date Inspector Kay?
- 11 A. Yes, so Inspector Kay, I would call Inspector Kay the
12 shift inspector, so he was responsible for his team of
13 officers and he was the most senior officer in terms of
14 response officers for that locality, so it would be the
15 shift inspector the shift sergeant and then the
16 constables on the team.
- 17 Q. So we've heard evidence that on the day in question the
18 PIO was an acting inspector, Inspector Kay, that the
19 acting sergeant, in charge of the response team was
20 a Sergeant Maxwell, and then the response team were
21 under those people. So the shift inspector would be the
22 PIO, Inspector Kay?
- 23 A. Yes.
- 24 Q. Thank you. So it would be the PIO's responsibility,
25 overall responsibility; if there had been failures to

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- 1 complete paperwork that should have been completed prior
2 to the end of a shift, it would be him to consider
3 raising that matter with Professional Standards?
- 4 A. Yes, and if the investigation side knew, that could also
5 be a link in with Professional Standards as well.
- 6 Q. Would that then be for the SIO, Pat Campbell, to -- that
7 option was open to him to raise the matter --
- 8 A. Yes.
- 9 Q. -- with Professional Standards?
- 10 A. Yes.
- 11 Q. If there is a failure to complete paperwork that is
12 causing some issue in an investigation, is it open to
13 the PIO -- the SIO, sorry, on this case, Pat Campbell,
14 to seek advice from Professional Standards and phone
15 them up and ask for some assistance?
- 16 A. Yes. There is -- there would be no reason to -- or, you
17 know, they are there as expert advisers, so --
- 18 Q. So there is no barriers between --
- 19 A. No there is nothing.
- 20 Q. -- that avenue of communication?
- 21 A. No.
- 22 Q. At what stage of the investigative process -- yesterday
23 you helpfully explained the three stages and how that
24 can proceed, that investigation. At what stage would
25 you consider it beneficial or important to gather in

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1 complaints and the discipline history of the officers
2 who attended, perhaps to look behind whether there was
3 any previous complaints, disciplinary findings, that
4 type of thing? Bearing in mind this race hypothesis
5 that we were talking about yesterday.

6 A. So that would be part of the investigation strategies,
7 which would start focusing on the different hypotheses,
8 not on that initial day, perhaps not on the second day,
9 depending on how many fast-track actions were
10 outstanding. I'm just presuming that perhaps thereafter
11 then that would be one of the actions to ask to be
12 carried out.

13 Q. Do you have any view, and you may not, but do you have
14 any view about when that would be dealt with? You've
15 said not the first or second day but in terms of when
16 that would be done, what would you anticipate?

17 A. I would probably say that there was no risk that
18 discipline or complaints records were going to be lost
19 or destroyed so they were going to be available. So
20 some time in the first week I would probably --
21 depending what else was in terms of your priorities, but
22 probably in the first week you would expect that action
23 to be raised and then something undertaken around that.

24 Q. Thank you. Thinking about the importance of the
25 investigation and how that was progressing, we've heard

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1 some evidence about the need for FLOs, family liaison
2 officers?

3 A. Yes.

4 Q. How would you have seen the role and purpose of a FLO at
5 that time?

6 A. So a FLO is an investigator. That is -- the primary
7 function of a FLO is to obtain information or evidence
8 from the family for the benefit of the -- I'm going to
9 say SIO but in this case the PIRC senior investigator.
10 So that is the main purpose. But there's other purposes
11 as well, that is to give information that the
12 independent investigator wants to provide to the family,
13 so there might be occasions when an SIO at certain
14 stages doesn't want to give the family certain
15 circumstances, and this is not in this case at all but
16 there may be -- part of the modus operandi for the crime
17 might be very specific and that information you would
18 always hold back because it is specialist knowledge and
19 you don't want anybody -- you don't want to get it out
20 in the public domain. But this was not the case in this
21 circumstance.

22 So it's primarily investigator, information and
23 evidence from the family, also evidence or information
24 that the investigator wants to pass to the family, and
25 then in addition to that it is support. And it's clear

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1 that it's not -- FLOs are not bereavement counsellors
2 or, you know, they don't provide trauma support, they
3 are not expert in that. Their job is to find somebody
4 who can come in and help the family. It is really to
5 identify what their individual needs are of the family
6 and either arrange for other trained individuals from
7 outwith policing to do that, but they also support them
8 in practical matters, you know, maybe registering
9 a death, they will take them to register a death,
10 et cetera.

11 So it's support but it is not counselling or
12 bereavement expertise, et cetera. It is to try and get
13 the right people to provide that care and support to the
14 family.

15 Q. There may have been some perception that really the FLOs
16 are there to just support the family but from what you
17 have said they are -- I think you said a primary part of
18 their role is to help the investigation?

19 A. Yes.

20 Q. So there's two or more aspects to --

21 A. I'd probably say there's three aspects to the FLO role:
22 information from, information to, and that practical
23 assessment of wellbeing and who can help.

24 Q. Thank you. From your own experience, what are the --
25 what is the importance of a FLO and what are the

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- 1 implications in relation to building a family's
2 confidence in an investigation?
- 3 A. It's vital.
- 4 Q. Why do you say that?
- 5 A. Well, I suppose when a death occurs, there's obviously
6 trauma, and how -- that personal interaction with
7 families, how if it is done badly then not only does the
8 quality of information coming to or from -- from the
9 family or to the family, how that can be impacted. But
10 there's also the bit about that trust and confidence and
11 it's building that through that interpersonal
12 relationship with families.
- 13 Q. Thank you. So the absence of a FLO, can that adversely
14 impact that trust and confidence that the family have in
15 the investigation?
- 16 A. Yes.
- 17 Q. I'm going to move on to ask you some specific questions
18 about your role that day but before I do that can I ask
19 you one further thing about the investigation in
20 general. It relates to -- you mentioned it yesterday --
21 the handover from the SIO to PIRC. Can you describe to
22 me what you would expect in terms of how there is that
23 official handover between one organisation and another,
24 between the police and PIRC?
- 25 A. I think I mentioned it yesterday. So it's not -- it is

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1 recognised that to change SIOs is -- can be difficult.
2 So when it comes to serious incidents or serious
3 crime -- if it is not, your SIO handover could be
4 documents, it could be a summary, a briefing paper,
5 outlining what has happened, lists of actions, what the
6 lines of investigation are considering at that time, and
7 any actions that had been discharged, the outcomes of
8 them. So there's a -- that's for cases where it's maybe
9 not serious or as serious. So that can be a method.

10 In terms of serious crime or incidents, then it
11 would be a verbal briefing and I was present at the
12 first PIRC briefing at half past one in the afternoon,
13 but for me that wasn't a sufficient level to say that
14 that briefing had taken place and the PIRC investigator
15 would have knowledge of all the facts. That was sort of
16 a more general overview. Albeit I'm aware that
17 Pat Campbell had kept the PIRC updated, there had been
18 telephone contact between Pat Campbell and the PIRC all
19 through the day until their arrival.

20 So then the next part would be for Pat Campbell to
21 sit with the investigator from PIRC to provide more
22 information that had been discussed at the PIRC
23 briefing. So the PIRC investigator would have had
24 I would probably say a good understanding of what had
25 happened and what was happening from his previous

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1 discussions and the PIRC briefing, but then there would
2 have to be a further discussion into specific points and
3 actions that were not discharged at that time, and
4 actions which maybe were waiting to be allocated so that
5 the PIRC investigator could make an assessment as to
6 whether he wished more priority actions to be discharged
7 first or happy that those actions were carried out.

8 Q. Thank you.

9 A. Does that make sense?

10 Q. Yes, absolutely. I'd like to maybe elicit some more
11 detail about some of these things. There is a lot in
12 that answer.

13 A. Okay.

14 Q. You've talked about a briefing paper, a list of actions,
15 lines of investigation.

16 A. So that is --

17 Q. In a lesser --

18 A. Yes.

19 Q. -- situation. And then you said in a more serious
20 situation there would be a verbal briefing, and to me it
21 seems strange that in less serious matters you have
22 a paper setting these things out, and in more serious
23 matters you say it's verbal.

24 A. I suppose the briefing would be sent to the new SIO.

25 Q. I see.

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- 1 A. There wouldn't be --
- 2 Q. There wouldn't a face-to-face discussion?
- 3 A. No, there wouldn't be a face-to-face. It would just be
- 4 a document with what has happened, that would be sent to
- 5 the new SIO and if there was anything that he or she
- 6 maybe wanted to clarify they could always contact. But
- 7 for serious incidents or events you would expect that
- 8 face-to-face discussion, handover.
- 9 Q. Is there an expectation in a serious matter where you
- 10 are having a face-to-face that that would -- there would
- 11 be paperwork prepared for that?
- 12 A. Well, I suppose there would be paperwork in terms of
- 13 actions, the SIO's policy file, perhaps, but generally
- 14 it would be notes taken and understanding from the
- 15 investigator who was taking over the investigation.
- 16 Q. Right.
- 17 A. And given the fact that Pat Campbell was not leaving as
- 18 soon as that briefing had taken place, he remained, so
- 19 there was always going to be that ability for the
- 20 investigator from PIRC to maybe clarify points, you
- 21 know, at any part thereafter.
- 22 Q. So Pat Campbell would remain available?
- 23 A. Yes, yes.
- 24 Q. And in terms of -- you've mentioned the policy book.
- 25 A. Yes.

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- 1 Q. What would you expect to be contained within a policy
2 book?
- 3 A. So policy books are not actions. So it's not an action
4 book, it's that strategic high level decisions that are
5 going to -- that require to be recorded and also the
6 rationale or justification for that. So the initial --
7 the initial stages of the policy book is really the
8 set-up, so probably the first part will be a very short
9 summary of what was known, probably the first policy
10 will be me appointing Pat Campbell as SIO, and
11 thereafter it's the high level strategic decisions made
12 by the SIO or IO thereafter. You also record -- I know,
13 and it's -- but you record things like finance, other
14 bits and pieces.
- 15 Q. In terms of high level, would that include the --
16 a summary of the hypotheses and strategies that are
17 being -- that will be considered for each, or is that
18 not high level?
- 19 A. No, that is high level. I think probably in the initial
20 phase of those fast-track actions, you may record
21 initial hypotheses. However, they would be developed as
22 time went on. So your policy file will always be
23 reviewed in terms of more information or expanding your
24 hypothesis or whichever way the investigation is going.
- 25 Q. Is that policy book handed over? Would it be handed

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- 1 over to PIRC?
- 2 A. So -- I think I mentioned this in my statement, I don't
3 know because I've never been in that situation before
4 but -- and it's -- it would have been Pat Campbell's
5 policy file and a Police Scotland policy file. I'm sure
6 the PIRC would have had their own policy file but
7 whether -- you know, so I don't think they would use
8 a Police Scotland policy file but the new SIO would have
9 access to the Police Scotland initial policy file.
- 10 Q. Thinking back to that initial briefing, which was prior
11 to the second Gold Group meeting that you've talked
12 about, do you remember -- you were present at that. Do
13 you remember a file or a policy book or paperwork being
14 handed over to PIRC at that?
- 15 A. No, because -- no, and to be honest probably at that
16 stage Pat Campbell hadn't had the opportunity to
17 actually sit down and start writing his policy file, it
18 was probably, you know, noted in a day book or -- you
19 know, you have to have a bit of time to sit down and
20 write it up. But the decisions or the information that
21 was going to appear in the policy file should have been
22 at least verbally discussed with Mr Harrower during that
23 PIRC briefing.
- 24 Q. Do you remember if it was?
- 25 A. At the~...?

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1 Q. At that initial discussion.

2 A. No, I just remember -- I've got a slight memory of that
3 meeting. I don't think it was very long, it was ... my
4 impression of it or my recollection of it, it wasn't
5 a very good meeting in terms of two-way discussion.

6 Q. You say not very good, and I think earlier you said,
7 "For me it wasn't at a sufficient level". Can you help
8 the Chair understand what you identified in terms of it
9 not being very good? What would you have perhaps
10 expected at that stage?

11 A. So I think -- there was -- I have to -- I'm not being
12 critical. So the PIRC had arrived, they had been aware
13 of their appointment, obviously, there had been a period
14 of time for Mr Harrower to think about how he was going
15 to approach the investigation when he arrived, I know
16 that Pat Campbell had been in contact with him during
17 that initial period. And I suppose I thought, perhaps
18 wrong, that PIRC would come in and, you know, there
19 would be a discussion as to what they wanted. Because
20 my impression was that they were going to lead the
21 investigation, and Police Scotland was there to provide
22 any support that they so required.

23 So at the meeting there was a couple of -- I call it
24 tumbleweed moments to be honest, it was quite
25 uncomfortable. So I think Stuart Houston at the time,

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1 he had been previously asked to start developing
2 a forensic strategy and during the meeting he discussed
3 at that point about various forensic considerations that
4 he thought were important during the forensic recovery
5 of Mr Bayoh's body, including swabbing. And he referred
6 it straight to the PIRC and I think he was hoping for
7 some sort of acknowledgment that that was -- they were
8 happy with that approach. And there was no response and
9 it was a bit of a tumbleweed moment.

10 Then from my recollection I had asked around -- or
11 I had highlighted the fact that there was maybe other
12 specialists available to start drawing up strategies for
13 other areas, and my thought was, well, Police Scotland
14 could draw up a strategy, hand it to PIRC, and they
15 could either accept it, amend it or reject it. That was
16 completely up to them, but I thought it was maybe
17 helpful and I don't think I got a response to that
18 either, so~...

19 But saying that, they were an independent
20 investigator, and I think I thought, well, they don't
21 have to -- they don't have to share their investigation
22 strategy with Police Scotland because they are
23 independent. We're just there to support them as much
24 as possible. So I sort of came out the meeting thinking
25 that there wasn't -- you know, there wasn't an obvious

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1 information coming from the meeting as to how they were
2 going to proceed with it, but more for me it was
3 I didn't know if they required any other resource to
4 assist in what was going to be their investigation
5 longer term.

6 Q. So the police were willing to provide support and you
7 made suggestions -- I am going to ask you about
8 the specialists, but at that stage no direction was
9 given or information --

10 A. No, and I -- maybe that in-depth discussion took place
11 thereafter with Pat Campbell. Maybe just in that forum
12 the -- Mr Harrower didn't feel it was the appropriate
13 place to discuss and maybe that did take place with
14 Pat Campbell. I don't know. But from that meeting, it
15 was ... I think I had mentioned to Stuart Houston when
16 we came out I thought it was a bit sort of uncomfortable
17 silences at it.

18 Q. You have said a moment ago you had suggested the
19 possibility of specialists assisting, and to draw up
20 strategies in areas which could be shared with PIRC and
21 they could do what they wished with those. What sort of
22 specialists were you thinking of at that time?

23 A. So I was thinking of a house-to house coordinator,
24 a CCTV coordinator, obviously the forensic strategy, you
25 know, basically anything from their investigation that

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1 would need a strategy if there was if it assisted then
2 we could see if there was you know even interview
3 advisers to come up with a strategy which they could
4 accept, amend or reject, that was completely up to them.

5 Q. In terms of that offer of assistance that you gave, at
6 any time, whether through PIRC direct or through
7 Pat Campbell, were you asked to assist in putting these
8 specialists in place?

9 A. So not at the meeting, and I think it is in my
10 statement, you know, in terms of the forensic strategy
11 that Stuart Houston was drawing up, after being given
12 information from yourselves, it was obvious that that
13 had happened, so Stuart Houston did draw up a forensic
14 strategy, PIRC must have agreed to it and that strategy
15 was implemented.

16 Q. You said that was something that Stuart Houston spoke
17 about at that meeting?

18 A. Yes.

19 Q. And you mentioned something about swabbing?

20 A. Yes.

21 Q. I think there was a reference to that in your Inquiry
22 statement. Do you remember what that related to? I'll
23 just look through my notes and see if we can find the
24 paragraph. Is it -- your Inquiry statement
25 paragraph 195. Let's look at paragraphs 194 and 195.

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1 So 194, my idea wasn't adopted by PIRC:

2 "I wasn't frustrated but more disappointed at the
3 lack of communication about how PIRC were going to move
4 forward."

5 At 195:

6 "... I remember Stuart Houston making reference to
7 body recovery, and how he believed the body should be
8 recovered, including the taking of nasal swabs. It was
9 directed at the PIRC. There was no response at the
10 meeting. They might've picked that up after the meeting
11 but I wasn't aware."

12 A. Yes.

13 Q. Can you help the Chair understand a little more about
14 what was being discussed there?

15 A. I can't, because I can't remember, sorry.

16 Q. That is fine.

17 A. But that bit:

18 "I don't think my idea was adopted by PIRC."

19 I was reminded later on that the forensic strategy
20 had been, so ... you know. That's ...

21 Q. So Stuart Houston's forensic strategy you understood was
22 later adopted by PIRC.

23 A. Yes.

24 Q. Not at the meeting but at a later stage?

25 A. Yes.

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1 Q. You weren't party to that at that stage?

2 A. No.

3 Q. Of the suggestions you made, for example the interview
4 adviser, were you aware whether that strategy was later
5 or subsequently adopted by PIRC?

6 A. I don't know.

7 Q. Were you asked to provide support in engaging the
8 assistance of a specialist interview adviser?

9 A. No.

10 Q. CCTV, was your suggestion about that adopted later?

11 A. I'm not sure.

12 Q. Were you ever requested to help engage the services of
13 a specialist?

14 A. I wasn't but I think what I was trying to say was there
15 might have been conversations with Pat Campbell
16 thereafter which I was unaware of. But from that
17 meeting there wasn't -- there wasn't a lot of
18 information coming from PIRC. And perhaps that was
19 their decision that they weren't sharing that
20 information at the Gold meeting, but for me I thought
21 there would be -- more information as to how they were
22 wanting to progress would have been shared.

23 Q. Thank you. We've not heard evidence from PIRC yet so we
24 will be able to ask them to explain further. You've
25 said -- just in relation to the meeting, you thought it

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1 was more of a general overview although you appreciated
2 there had been updates between Pat Campbell and PIRC
3 prior to it. You said earlier you thought that after
4 that general overview at that meeting, that there would
5 then be -- Police Scotland would sit with the
6 investigator from PIRC and provide more information.

7 A. Yes.

8 Q. Would that more detailed conversation be more of
9 a formal handover that you had expected?

10 A. I think the PIRC briefing was the start of the handover,
11 and the conversations thereafter would complete the
12 handover.

13 Q. Right. Is that what normally would happen, that there
14 would be a sort of general briefing and then subsequent
15 conversations would be the more formal handover?

16 A. No.

17 Q. What would normally happen?

18 A. Are you talking specifically about Police Scotland SIO
19 to Police Scotland SIO?

20 Q. Well, yes, let's look at that first. If there was
21 a handover between SIOs who were both in
22 Police Scotland, what would the handover look like in
23 that situation?

24 A. So a sit-down briefing provided by the previous SIO to
25 the new SIO, and providing information about actions

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1 taken and actions still to be taken.

2 Q. That would be the sort of formal handover?

3 A. Yes.

4 Q. Face-to-face?

5 A. Yes.

6 Q. Detailed?

7 A. Yes.

8 Q. And a two-way communication between the two?

9 A. Yes.

10 Q. Then in terms of a handover -- have you experienced

11 a handover between Police Scotland and PIRC --

12 A. No.

13 Q. -- previously? After 2015 did you?

14 A. No.

15 Q. No, all right. Can I ask you for your comment on some

16 evidence that we've heard from Pat Campbell. I asked

17 him about handover with -- from him to PIRC and asked

18 him about the policy file. I asked him about sort of

19 paperwork being transferred and that type of thing.

20 I asked him about a sort of official handover. He said

21 in relation to an official handover:

22 "Answer: It was clear from 9.30 in the morning to me

23 that this was not Police Scotland led, this was PIRC led

24 but they did require significant support around it."

25 I asked:

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1 "Question: Looking back now, do you think that
2 having a formal part of the process where there was
3 an official handover and setting out the scope of what
4 was being handed over would maybe have assisted?"

5 I'm interested in what your view would be.

6 I appreciate you were present at the initial briefing,
7 the initial meeting. Do you think it would have helped
8 to have had a more formal handover, perhaps akin to the
9 type you have described between Police Scotland SIOs,
10 with PIRC? Do you think that would have helped to have
11 had that more formal style of handover?

12 A. I think there was probably -- what my -- my recollection
13 of the PIRC briefing, the information that PIRC were
14 aware of during the day, so they would have had a good
15 understanding of events up until then, I think
16 Pat Campbell had been in contact with Mr Harrower about
17 status of the officers, deployment of FLOs, you know, so
18 they were -- they had a good understanding of what was
19 happening. Probably the PIRC briefing would have
20 cemented that to a certain extent, and then going in to
21 brief around actions finalised and actions still
22 outstanding, I think that is quite formal.

23 Q. Okay. Do you think it could have been improved, that
24 initial face-to-face discussion with PIRC? They've
25 arrived at Kirkcaldy, that was the first time they

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1 arrived. Do you think a more formal face-to-face
2 briefing would have helped, would have been beneficial
3 to the investigation?

4 A. If PIRC felt that there was insufficient information
5 provided to them at that point, then -- and if that
6 remained throughout investigation, then perhaps there
7 would have been benefits for some further discussion at
8 the points that they had -- that they felt that they
9 need clarified or more information. But to be honest
10 I don't know.

11 Q. All right. Thank you. Can I -- I have questions
12 I would like to ask you about your particular role that
13 day.

14 A. Yes.

15 Q. And I know you have touched on this, but could you help
16 us, help the Chair, get a clearer picture of what your
17 specific role was, what your tasks were, for that day?

18 A. So as the on-call DCS, it is around that strategic
19 overview of incidents across Scotland and particularly
20 in relation to this one it is that strategic overview of
21 those -- the initial investigation, fast-track actions,
22 and supporting Pat Campbell whether it be resources or
23 whatever he required that needed my assistance. It
24 could just be a general conversation if there was
25 concerns about anything.

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1 I suppose later on in the day I was conscious and
2 aware that PIRC -- aware that PIRC had arrived, so in
3 terms of my strategic overview of the investigation,
4 then I was conscious that PIRC were the lead
5 investigators, and therefore to a certain extent we were
6 supporting PIRC.

7 Q. Did you have a role that involved you directing the
8 investigation in any way or carrying out any sort of
9 tasks for the purposes of the investigation?

10 A. I think I only carried out one task on behalf of
11 Ruaraidh Nicholson, which was around CS and PAVA.

12 Q. What was that task?

13 A. To establish very early on whether PAVA and CS has been
14 discharged before within Police Scotland -- sorry PAVA,
15 it was not CS. So there was a trial ongoing at the time
16 and PAVA -- prior to the PAVA rollout throughout
17 Scotland, so there was a trial so I think he had
18 initially thought could PAVA have had an impact on
19 Mr Bayoh and has PAVA been used in Police Scotland
20 before, so that was a task which I undertook.

21 Q. That was the only task to assist -- as part of the
22 investigation?

23 A. The only specific task for myself.

24 Q. Were you involved in any way in line managing
25 Pat Campbell as the SIO? You were a more senior rank.

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1 A. Yes, so I suppose technically for that day I was his
2 line manager.

3 Q. What did that role involve, that day, as a line manager?

4 A. So it was supporting Pat in any way I could.

5 Q. Would you have had line manager responsibilities in
6 relation to Pat Campbell that day and what would those
7 have been?

8 A. Well, yes, I would have line management responsibilities
9 for Pat.

10 Q. What would they have been for that one day?

11 A. Advising, supporting, assisting in any way I could.

12 Q. Would that advising and supporting, would that have been
13 at his request or could you have imposed your own views
14 on Pat Campbell?

15 A. Both.

16 Q. Did you impose any of your own views on Pat Campbell?

17 A. Twice.

18 Q. What were they?

19 A. So one was in relation to the requesting of taking
20 statements, and the second one was in relation to FLO or
21 the death message. And when I say "impose" there was
22 a discussion. You know, I'm conscious again it's the
23 bit about there can only ever be one SIO and they have
24 to be responsible for their decision-making, so it
25 wasn't -- I didn't impose, we had a conversation and

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1 usually when it comes to conversations you play a bit of
2 devil's advocate or you try and work things through, and
3 they usually do.

4 Q. Let's look at the conversation you had with Pat Campbell
5 about taking statements.

6 A. Yes.

7 Q. Tell us about that. Was this from the police officers?

8 A. Yes, it was.

9 Q. Tell us about that conversation.

10 A. So it was a brief conversation, and it was -- there had
11 been discussion about officers' status beforehand, and
12 I was very clear in my head that they were significant
13 witnesses, for the reasons that I have discussed before.
14 We had no evidence to suggest a crime had been
15 committed, and that crime had been committed or believed
16 to have been committed by a single officer, a number of
17 officers or all the officers concerned. So we had had
18 that discussion. I know that that was Pat's view. And
19 I know that he had discussed that with Keith Harrower,
20 importantly, for me, that that was their view. So
21 there's agreement across the board in terms of that.

22 However, it was at the -- it was after
23 Stuart Houston arrived so it must have been about
24 12.15ish. Stuart Houston had arrived, I had gone down
25 to -- I can't remember if it was an office or the

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1 conference room, knowing that Stuart had arrived, and
2 Pat Campbell came in and he looked quite frustrated.
3 Something must have happened, and I don't know what, but
4 something must have happened just before that, and he
5 made the comment, "Apparently we can't take statements
6 off the officers", or, "We can't ask for statements from
7 the officers". And he seemed quite frustrated about it.
8 So we had a discussion, my position was of course we
9 can. They are witnesses. And we had a discussion,
10 he -- and -- the position I think was we were able to
11 chat it through as to why their status hadn't changed
12 whatsoever, there was no reason why we couldn't ask for
13 officers to provide statements, and that was the end of
14 the conversation because I think he had -- we had worked
15 that through, why the suggestion that we couldn't ask or
16 couldn't take statements didn't apply, because they were
17 significant witnesses.

18 So I think it was -- something must have happened
19 and I think it was just that for me reassurance that
20 actually their status hasn't changed, what you initially
21 thought, what PIRC have agreed with, what I have
22 thought, you know, there is nothing that has changed
23 those circumstances so yes we can.

24 Q. So no reason why you couldn't ask the police officers
25 for statements?

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- 1 A. Yes, I don't think that Pat thought we couldn't, I think
2 it was just the frustration at something that had
3 happened and there was just that -- we just needed to
4 talk it through to say: right, what have we got here?
5 Let's talk it through.
- 6 Q. So at the end of that discussion did it appear to you
7 that everyone agreed that there was --
- 8 A. Absolutely.
- 9 Q. -- no reason why you couldn't ask?
- 10 A. Absolutely.
- 11 Q. What did you expect to happen after you had reached that
12 agreement with everyone in terms of the statements.
- 13 A. That they were going to be asked to provide statements.
- 14 Q. Just so non-police officers understand, how would that
15 have been facilitated, asking police officers for
16 statements?
- 17 A. So at that point the -- from my recollection, it was
18 that we were going to ask officers to provide their own
19 written statements.
- 20 Q. Right. Who would have made that request?
- 21 A. The investigation side would have made that request to
22 the officers. I know at this point that -- because
23 I think at the 11.30 meeting, which was before this
24 discussion, that there was -- Federation were giving
25 advice to officers, so I know that was happening, but it

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- 1 was still -- it didn't matter to me that they were
2 considering the Federation position, we still had the
3 right or the -- to ask them to provide.
- 4 Q. The investigation team would have organised that, would
5 that have come from Pat Campbell?
- 6 A. Pat Campbell, and potentially facilitated through
7 Conrad Trickett.
- 8 Q. So it could have potentially been done from Pat Campbell
9 through a request to Conrad Trickett to ask the
10 officers?
- 11 A. Yes, and then the way that was going to be carried out
12 was probably for Pat to work through as in was each
13 officer going to be removed from the PIM suite to have
14 a separate room to be able to prepare their statement,
15 et cetera. That was Pat -- you know, as in the
16 logistics of how to do it, that was for Pat. But
17 something must have happened between that end of the
18 first Gold meeting and meeting Stuart Houston that
19 something had caused Pat some frustration.
- 20 Q. Although it was for Pat Campbell to handle the logistics
21 and getting that request made to the officers, if
22 someone had come to you -- we've heard evidence that
23 maybe there were issues about access to computers and
24 things along those lines -- if someone had come to you
25 and said: the officers can't access computers, could you

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1 have assisted and supported in that? Or would that have
2 been for Pat Campbell to do?

3 A. I could have tried, but I can't think off the top of my
4 head how that could have been resolved quickly. You
5 know, that means calling out IT and a whole range of
6 individuals.

7 Q. You mentioned yesterday that you had issues personally
8 getting on to the computer system --

9 A. Mm-hm.

10 Q. -- in Kirkcaldy that day. Is that something -- would
11 you have -- if accessing computers wasn't possible, are
12 there other ways that you could have helped officers
13 provide statements if they were will to provide those?

14 A. They certainly could have written their statements.

15 Q. At any time after that discussion did Pat Campbell come
16 to you and say, "I'm having logical issues, can you help
17 support me with getting statements, or offering
18 facilities to officers for statements"?

19 A. No.

20 Q. No.

21 A. I don't think it came to that.

22 Q. All right. When you say, "I don't think it came to
23 that", what do you mean?

24 A. Because I think it became clear that the officers, on
25 legal advice, were not going to provide any statements.

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1 Q. The officers didn't provide statements that day. Is
2 there anything else that you can think of now, looking
3 back on that, that you think the police could have done
4 to maybe use some leverage or some persuasion to get
5 officers to give statements? Or do you not think that
6 would have been appropriate?

7 A. I think the officers were aware that this was going to
8 be a PIRC-led enquiry, they had been told that I think
9 earlier on. I think there might have been some
10 distrust -- and this is -- I don't have any evidence of
11 this at all, but, you know, there might have been some
12 distrust in the officers that: oh, well Police Scotland
13 are saying we're witnesses but, in actual fact, the
14 PIRC's viewpoint is that we're suspects. I would have
15 thought it would have been beneficial at the outset for
16 the PIRC to go and explain their role to the officers
17 and make it clear that they were leading the
18 investigation and clear that the officers' status was
19 witnesses. Because, you know, I think there was --
20 there could have been distrust in terms of what the
21 police were asking them to do and how that may have been
22 different from PIRC's perspective.

23 Q. You do know if there was any communication between PIRC
24 and the officers in the canteen that day?

25 A. There wasn't -- I don't think there was any discussions

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1 prior to the 14 -- yes, the half past two second Gold.

2 Can I just refer to my statement?

3 Q. Please do, yes. I will take you to the

4 Gold Group minutes later.

5 A. That will be fine then.

6 Q. We can come back to that. You said there were two

7 areas, we were asking about whether you imposed your

8 views on Pat Campbell, you said that was a discussion

9 not an imposition.

10 A. Yes.

11 Q. The other thing that you mentioned was the FLOs and the

12 death messages. Can you tell us about that discussion

13 that you had with Pat Campbell?

14 A. So my understanding -- well, I was aware. So

15 Pat Campbell and Mr Harrower had had a discussion and

16 Pat had informed me that what he intended to do was to

17 deploy FLOs to pass on the death message and then PIRC

18 FLOs would be deployed after that. So I didn't have

19 a huge concern about that. I wasn't -- I didn't have

20 a conversation to work through things with Pat because,

21 well, both Pat and Mr Harrower had come to that

22 decision. For me, FLOs are not normally -- actually

23 they are not normally deployed to carry out the passing

24 of a death message. They parachute in after the death

25 message has been passed for a number of reasons, and

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1 part of it is passing a death message is difficult and
2 families will remember the person who passed the death
3 message and FLOs are brought in later on, they haven't
4 passed the death message, there is no residual anxiety
5 or -- I'm not saying anxiety, but, you know, they are
6 new, they are a new individual comes in --

7 Q. They are not associated with that potentially traumatic
8 event of the death message?

9 A. Yes, and then they can build relationships without the
10 families always remembering them as passing on that
11 horrific information. However, it has happened and it
12 can happen. It is absolutely not common at all. So
13 I didn't have huge concerns about it because my belief
14 was that the Police Scotland FLOs would pass the death
15 message, try and obtain some information from the --
16 immediate urgent information from the family, tell them
17 how to -- tell them about the role of Crown Office and
18 Procurator Fiscal Service and PIRC and then PIRC FLOs
19 would be coming in behind them to take on that longer
20 term investigative information support role thereafter,
21 which was going to be absolutely vital because of the
22 circumstances of Mr Bayoh's death.

23 Q. Was that what you expected to happen?

24 A. So at the beginning that is what I expected to happen.

25 Q. Did you later find out that wasn't what happened?

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1 A. So at the 1.30 PIRC briefing, it became clear to me that
2 PIRC FLOs were not going to attend that day. And by
3 this stage, after the PIRC briefing at 1.30, I spoke to
4 Pat because I had been asking him about how we were
5 getting on with FLOs a couple of times and I said to
6 him, "I'm really concerned, time's moving on". By this
7 stage FLOs had been identified and were coming out. He
8 said that the FLOs had been identified and they were
9 going to be an hour, and I know from my own personal
10 experience, when you call -- they had to be recalled to
11 duty. I know from my personal experience that somebody
12 when you phone them, they will say -- they will give you
13 a time which is basically the travelling time but
14 generally it is a wee bit longer because they know they
15 are not going to have something to eat, a refreshment
16 break, for some time, so they will have a quick cup of
17 tea and a biscuit or something and they'll get changed.
18 So it is usual a wee bit longer than the travelling
19 time.

20 Then, before you deploy a FLO you have to brief
21 them, obviously, and a risk assessment should be carried
22 out. So even though Pat was saying, "They are going to
23 be an hour", I didn't think they were going to be
24 actually with the Bayoh family for about another
25 two hours.

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1 So the time was moving on and then thinking about
2 the dynamics of it, the PIRC FLOs weren't going to be
3 there until the next day. I sort of said to Pat:
4 I think we should get officers to pass a death message,
5 by the time they've done that the FLOs will be able
6 then -- you know, they will be here, they can be
7 parachuted in within the hour and that would allow that
8 further information to be provided to the family,
9 further -- hopefully some information from the family
10 and there will be that initial wellbeing assessment done
11 and then PIRC FLOs can take over the following day.

12 So in my head there was -- that was sort of in my
13 plan. So I'd said to Pat, "I think we should get the
14 death message passed", and I wasn't being rude to
15 anybody that was informed but I do remember saying,
16 "Pat, every Tom, Dick and Harry has been told about this
17 apart from the family. We need to get somebody to tell
18 the family". And he agreed. I didn't -- you know, it
19 was that general conversation, that time's moving on, we
20 need to tell the family, we can't wait another two hours
21 before FLO deployment, and the PIRC FLOs aren't going to
22 be here. So there was agreement that officers would
23 attend to deliver the death message with the intention
24 that by the time that was done there would be a short
25 period of time before FLOs could be parachuted in.

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1 Q. Who was involved in writing that death message that
2 would be delivered to the next of kin?

3 A. So unfortunately -- so we had a conversation and Pat
4 said that he would get officers to deliver the death
5 message.

6 Q. Who was involved in preparing the wording; were you
7 involved in that?

8 A. For initially?

9 Q. Initially.

10 A. No.

11 Q. No. So that wasn't -- that wasn't the level of
12 discussion that you had with Pat Campbell?

13 A. No.

14 Q. And that would be the first death message that went to
15 the -- we know the Johnsons, who were the next of kin of
16 Mr Bayoh?

17 A. Yes.

18 Q. Would you normally be a party to preparing the wording
19 of a death message?

20 A. No.

21 Q. No. I will come on to this topic in further detail but
22 can I, just to complete the questions I was asking
23 about -- not the imposition on Pat Campbell but these
24 discussions, you said there were two occasions. The
25 statement we've discussed, the FLO we have discussed

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1 involving the death message --

2 A. There was probably other conversations with Pat but not
3 that I can remember now.

4 Q. I'm just wondering, in terms of the hypotheses that we
5 discussed yesterday, did you have any discussions with
6 Pat about the hypotheses that were being created on that
7 day?

8 A. I can't recall. I can't.

9 Q. Would you have considered it part of your role as his
10 line manager that day to have that discussion on that
11 day about hypotheses?

12 A. I would have -- I think probably during the different
13 Gold meetings that it was clear what Pat's initial
14 intentions were for obtaining those -- the information
15 from the fast-track actions. Did I sit down and ask Pat
16 was one of his hypotheses that the officers' actions had
17 been racially motivated? I didn't. Maybe I should have
18 but I didn't, because to be honest I thought it was
19 blindingly obvious to everybody, you know, that there
20 was an ACC, two Chief Supers, Pat Campbell: why were we
21 all there if this wasn't one of the key factors, that
22 a man had died in police custody and he was a black man?

23 I suppose in hindsight that bit about assume nothing
24 but to me there was nothing -- every -- you know,
25 people's reactions, how they spoke, this was the major

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1 issue here, was Mr Bayoh's ethnicity and he had died in
2 police custody. You know, from what had happened in
3 other parts of the United Kingdom, the training that you
4 got when you did your officer safety training, talking
5 about previous incidents, it was -- sorry. It was
6 just ...

7 Q. You are saying people's reactions, how they were
8 speaking, can you help the Chair understand what you
9 mean by that?

10 A. Well, it was -- it was so serious. You know,
11 I can't ... everybody -- by -- it's really difficult to
12 explain but it was -- everybody took it really
13 seriously, at the meetings. Of course it was -- you
14 know, it was a critical incident, a black male had died
15 following restraint by police officers. Of course race
16 was a -- the main factor in terms of how the officers
17 had dealt with him.

18 MS GRAHAME: Thank you.

19 Would that be an appropriate place?

20 LORD BRACADALE: We will stop for 20 minutes.

21 (11.31 am)

22 (A short break)

23 (11.51 pm)

24 (Delay in proceedings)

25 (12.12 pm)

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1 LORD BRACADALE: Sorry for the delay but we are now ready to
2 resume.

3 Ms Grahame.

4 MS GRAHAME: Thank you.

5 Just before the break I was talking to you about --
6 I think you said it was your understanding of the day,
7 it was blindingly obvious race was the main factor in
8 terms of how officers dealt with Mr Bayoh.

9 I would like to ask you to comment on a couple of
10 passages of evidence that we've heard. Just so you can
11 comment. They are both from the same witness, so I can
12 read them both out.

13 The first was a passage of evidence which was on
14 Day 47 of the Inquiry, which for those listening, it was
15 9 March this year and for those with access to the
16 transcription services, those behind me, it's page 98.

17 It was said by Pat Campbell:

18 "Answer: Mr Bayoh being black didn't have any
19 bearing on my direction at the time."

20 Would that surprise you to hear that comment from
21 Pat Campbell?

22 A. I suppose it would be in what context. I think I had
23 sort of mentioned yesterday that in those initial
24 fast-track actions that were being undertaken, in terms
25 of Mr Bayoh's ethnicity or trying to establish

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1 motivation, that wouldn't be -- you know, it wouldn't
2 have a significant impact, so the identification of
3 Mr Bayoh, the forensic recovery of Mr Bayoh's body, the
4 crime scene examination at Hayfield Road et cetera. In
5 terms of his considerations of those fast-track actions,
6 Mr Bayoh's ethnicity and any potential motivation of the
7 officers wouldn't impact on those initial fast-track
8 actions.

9 If it is around, you know, his understanding of the
10 situation, then that would be surprising that a black
11 man had died in police custody, the establishment of
12 whether officers had used reasonable force or not, and
13 if not, what were the reasons for using excessive force
14 would be significant.

15 Q. I think the next passage might elaborate on this. I had
16 asked Pat Campbell about a passage from your Inquiry
17 statement. Let's look at that just to remind people.
18 I spoke to you about that yesterday. Paragraph 121 of
19 your Inquiry statement and we can have that on the
20 screen. This was the paragraph that related to -- that
21 prompted the discussion about the race hypothesis
22 yesterday:

23 "... it is in the back of your mind when you are
24 thinking about all possibilities. In terms of
25 hypotheses, one would have been that the male had been

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1 treated differently because he was a black male."

2 You remember we talked about that yesterday?

3 A. Yes.

4 Q. And I asked Pat Campbell to give us his comments on
5 that. His answer to that -- this was Day 49, 14 March,
6 for those behind me, page 123:

7 "Answer: That is Lesley's hypothesis. That is one
8 of the things that she is saying that she hasn't shared
9 with anyone around that, as she quite rightly points
10 out. But again, I was keeping a very open and
11 transparent approach to this. Was this a particular
12 option that was going to develop as we got personal
13 initial accounts, that there was some aspect that it was
14 racially motivated? So it fitted in with the aspect of
15 the hypotheses around about restraint being used,
16 excessive force potentially being used, what was the
17 motivation around excessive force being used, if it was
18 excessive force? So it was -- it was obviously -- it
19 was a significant aspect of the response to the
20 investigation."

21 I asked:

22 "Question: So the restraint and possibility of
23 excessive force having been used by the police officers
24 at Hayfield Road was one of the hypotheses?"

25 And he said:

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1 "Answer: It was."

2 Then I asked:

3 "Question: And in keeping an open mind it was
4 a possibility which you were bearing in mind that race
5 was a factor, the fact that Mr Bayoh was black was
6 a factor in that, in assessing that hypothesis?"

7 His answer was:

8 "Answer: Absolutely, there was nothing discounted at
9 that particular stage."

10 So in response to that comment, do you have any --
11 anything to say or do you disagree with any of that or
12 do you agree with it? Sorry, that was a long passage to
13 read. I unfortunately don't have a hard copy to let --

14 A. I think we are sort of saying the same thing, aren't we?

15 Q. I have my own impression but I am interested if you have
16 anything to add in relation to comment?

17 A. Sorry, could you read that out again.

18 Q. I could. I am sorry I don't have a hard copy. So I was
19 asking him about paragraph 121.

20 A. Yes.

21 Q. He said:

22 "Answer: That is Lesley's hypothesis. That is one
23 of the things that she is saying that she hasn't shared
24 with anyone around that, as she quite rightly points
25 out. But again, I was keeping a very open and

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1 transparent approach to this. Was this a particular
2 option that was going to develop as we got personal
3 initial accounts, that there was some aspect that it was
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5 the hypotheses around about restraint being used,
6 excessive force potentially being used, what was the
7 motivation around excessive force being used, if it was
8 excessive force? So it was -- it was obviously -- it
9 was a significant aspect of the response to the
10 investigation."

11 And I asked him:

12 "Question: So the restraint and the possibility of
13 excessive force having been used by of the officers at
14 Hayfield Road was one of the hypotheses?"

15 His answer was:

16 "Answer: It was."

17 Then I asked him:

18 "Question: In keeping an open mind it was
19 a possibility which you were bearing in mind that race
20 was a factor, the fact that Mr Bayoh was black was
21 a factor in that in assessing that hypothesis?"

22 His answer was:

23 "Answer: Absolutely, there was nothing discounted at
24 that particular stage."

25 A. Yes.

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- 1 Q. Are you content that that is basically what you've been
2 saying?
- 3 A. Yes.
- 4 Q. Sorry, you seem hesitant there.
- 5 A. No --
- 6 Q. I appreciate it's difficult.
- 7 A. Yes. No, I think that is similar to what I'm -- what my
8 thoughts were at the time. Albeit, can I just say again
9 that at that initial fast-track actions they are then to
10 assist developing the investigative strategy which is
11 the next phase in the investigation further, so, yes.
- 12 Q. I think you explained yesterday that the hypotheses will
13 be developed as the investigation progresses?
- 14 A. Yes.
- 15 Q. We've heard from other witnesses, a number of other
16 witnesses who have indicated that race had nothing to do
17 with matters. From your answer before the break, is it
18 fair to say you would not agree with that?
- 19 A. I wouldn't agree with that.
- 20 Q. You wouldn't agree with that?
- 21 A. No.
- 22 Q. I think from what you've said it was the main factor as
23 far as you were concerned?
- 24 A. Yes.
- 25 Q. In relation to your discussions with the Gold Group

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1 minutes and -- sorry, Gold Group meetings, did you have
2 an impression that other officers at those Gold Group
3 meetings were of a similar mind to you about race being
4 the main factor?

5 A. It's hard to recall because I've got a difficulty
6 recalling exactly what was discussed at every
7 Gold meeting. But my clear impression was how serious
8 this was being taken and that Mr Bayoh, because of his
9 ethnicity and the actions of officers, was basically why
10 we were all there.

11 Q. We heard evidence from Garry McEwan earlier this week --

12 A. Yes.

13 Q. -- that he had declared a critical incident and that was
14 the first time in I think he said 25 years in his career
15 that he had actually declared a critical incident, so he
16 viewed that as a very significant matter.

17 A. Yes.

18 Q. If I can summarise it that way.

19 A. Yes.

20 Q. What is your experience of dealing with critical
21 incidents? Are they a --

22 A. So ... it's probably quite difficult because, as I said
23 before, we used the Gold, Silver, Bronze structure when
24 it hadn't been declared as critical incident but it was
25 a good structure to use. I think -- I can't be certain

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1 but I think there might have been -- let me think ...

2 I think there might have been three occasions as
3 a Detective Chief Superintendent that critical incidents
4 were declared and the Gold, Silver, Bronze structure was
5 put in place.

6 Q. Was that in your entire career?

7 A. Yes.

8 Q. Thank you.

9 A. That is as far as I can remember. So three -- I think
10 three incidents between 2014 and 2020.

11 Q. We've heard other people saying and giving evidence that
12 race wasn't being discussed by the officers. Does it
13 surprise you that at the level of the attending
14 officers, race wasn't being discussed?

15 A. Attending officers at the Gold meetings?

16 Q. No, attending officers at the scene at Hayfield Road.

17 A. Yes, that surprises me.

18 Q. Why does that surprise you?

19 A. Because of the circumstances of the incident.

20 Q. Is there -- you've obviously been an experienced
21 officer, you have been involved in
22 Professional Standards, you have told us about the work
23 that you've done, is there an issue or was there
24 an issue in 2015, to be more precise, where officers
25 avoided talking about ethnicity or race?

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1 A. I can't answer that because I haven't been involved in
2 many investigations where race was or ethnicity was
3 a factor. I know -- I know in previous independent
4 inquiries where there has been some concerns that police
5 officers or other partner agencies avoid discussing the
6 ethnicity of individuals because they don't want to
7 be -- you know, they are concerned that maybe they are
8 taken out of context, and it's a racist comment or
9 whatever, and I have a bit of awareness of that in other
10 situations. But I can't think of any time where
11 ethnicity has been tiptoed around. I can't think of any
12 and I don't -- I don't -- I say in my statement that was
13 just from my recollection, from eight years ago. You
14 know, I can't say specifically that nobody talked about
15 Mr Bayoh being a black male or the impact it might have
16 on the communities around Kirkcaldy or wider. Just
17 probably I couldn't remember.

18 Q. Thank you. Before the break we were also touching upon
19 the delivery of the death message.

20 A. Yes.

21 Q. I'd asked you a question about FLOs being appointed, you
22 have explained that, and in relation to that first death
23 message being delivered to the next of kin, the
24 Johnsons, you said weren't involved. Can I move on and
25 ask you about some further paragraphs in your Inquiry

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1 statement. Perhaps if we begin with 315. This is the
2 Inquiry team asking you about a comment in a statement,
3 a PIRC statement, from Pat Campbell. Page 66,
4 paragraph 315. Do you have that?

5 A. Yes.

6 Q. This is a quote from the statement:

7 "... 'On looking at this document, I can state that
8 this is the document that I wrote in consultation with
9 Detective Chief Superintendent Boal as a form of words
10 to be provided to the family as the death message. This
11 paper was passed to Detective Inspector Robson to relay
12 to the Detectives via telephone at the residence of
13 the [next of kin]'."

14 I would like to just be clear, was that in relation
15 to the first death message that was delivered to the
16 Johnsons or a subsequent message?

17 A. A subsequent message.

18 Q. Then at paragraph 316 you say:

19 "I have been told DSU Pat Campbell states [again in
20 a PIRC statement] 'From memory about 1500 hours, that
21 day, Inspector Robson informed me that one of
22 the detectives was on the telephone and that the family
23 required further information. He went on to say that
24 they were asking a number of difficult questions.
25 I then sat down and spoke with

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1 Detective Chief Superintendent Boal and together we put
2 together a form of words. The actual words used was not
3 entered into the policy book, however, the decision to
4 do so was and is detailed as number 14.

5 "'I did however write these words down into my day
6 book and read as follows: During the arrest of the male,
7 Sheku Bayoh on Hayfield Road around 0715 hours, this
8 morning he has become unconscious, and on arrival at
9 Hospital, despite efforts of medical staff has died'."

10 That was from the Pat Campbell statement given to
11 PIRC. Were you involved in preparing that subsequent
12 death message with Pat Campbell?

13 A. I was involved in preparing that subsequent death
14 message. However, what has been written down in his day
15 book is the -- I think that is probably his initial
16 draft. It was amended slightly but the -- the -- it was
17 amended slightly.

18 Q. I have a note of the -- as I understand it, the final
19 terms of that:

20 "Following an incident this morning in the
21 Hayfield Road area of Kirkcaldy, officers from
22 Police Scotland had been trying to arrest Sheku Bayoh
23 during which time he has become unconscious, conveyed to
24 hospital by Scottish Ambulance Service, and despite best
25 efforts by medical staff died shortly after 9 am this

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1 morning."

2 Can you explain to the Chair what your involvement
3 was in preparing that second death message to be
4 delivered to the Johnsons?

5 A. So I think it was just after the 14.30 Gold meeting, Pat
6 had said to me that the officers had gone to pass the
7 death message to Mr Bayoh's family, that they were
8 asking for more information and I was a wee bit sort of
9 confused at that time, and I said: well, in terms of
10 what? And he told me that they hadn't been informed
11 that Mr Bayoh's death -- or that police contact had
12 immediately preceded Mr Bayoh's death. So my
13 understanding was officers were still at the family home
14 and that is why we drew up the form of words.

15 Q. I think in paragraph 317 you say:

16 "The next of kin was aware of the death but not
17 informed of police contact."

18 A. Yes.

19 Q. We've heard evidence from the officers who delivered
20 that death message to the Johnsons that they'd received
21 an instruction not to mention police contact. Were you
22 involved in anything in relation to that --

23 A. No, I --

24 Q. -- decision?

25 A. I wouldn't have been involved, or I would have had

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1 concerns in terms of them not being told right away.
2 You cannot just go into somebody's home and say, you
3 know, "Your loved one has died", and that is all you
4 say. If we take away from this scenario there has to be
5 a certain amount of context put round it, and whilst the
6 person providing the death message will not be able to
7 go into a whole load of detail at that time, and that
8 was my thoughts, that would be the FLOs' responsibility
9 thereafter, you have to put some context round as to why
10 the individual has died.

11 Now, taken away from Mr Bayoh, if somebody was
12 involved in a road traffic accident, officers wouldn't
13 just go and say, "I'm sorry, your loved one has died",
14 they would explain a bit about there had been a road
15 traffic accident at a certain time on a certain day and
16 that that FLO would be deployed, and explain that there
17 were specialist trained officers who would be able to
18 provide more information.

19 So I honestly have no idea who instructed the
20 officers not to disclose some information as to the
21 context of Mr Bayoh's death and then the FLOs could go
22 into greater level of detail, again after speaking to
23 Pat Campbell and Mr Harrower, as to exactly how further
24 that level of detail should be provided.

25 Q. Can you see -- we've heard some evidence that not being

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1 informed of police contact at that time, the first death
2 message, was damaging to the relationship that
3 the family had with the police?

4 A. Yes.

5 Q. Would you agree with that?

6 A. Yes.

7 Q. Can I ask you to look back to an earlier paragraph.

8 A. Yes.

9 Q. Paragraph 308. This relates to the first death message,
10 as I understand it. What is said in your statement
11 here:

12 "In relation to the death message I think Pat and
13 I came up with a form of words~..."

14 A. Yes.

15 Q. "... but that was after the family had been made aware
16 of his death."

17 A. That is the one that we are talking about.

18 Q. So you were involved with the delivery of the second
19 death message, but not the first?

20 A. (Witness shakes head).

21 Q. Thank you. I think at the beginning of this -- prior to
22 the break I said I was going to start asking you about
23 the role you had that day and I asked you some questions
24 about that. I said I was going to move on to some
25 specific elements. I would like to return to that, if

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1 I may. In relation to the officers, they were brought
2 back to the canteen at Kirkcaldy Police Office. We have
3 heard evidence about this.

4 A. Yes.

5 Q. You have explained to us that you had a role in
6 supporting the investigation, and Pat Campbell in
7 particular. I'm interested in what involvement, if any,
8 you had in the decision not to separate the officers,
9 and to bring them back to the canteen.

10 A. So ... I don't know when I was informed, I can't recall
11 when I was informed that the officers had been brought
12 back to Kirkcaldy Police Station, and were all within
13 the canteen at Kirkcaldy Police Station, I think that
14 was probably after the executive meeting which started
15 at 9.30 and probably finished just after 10 o'clock.
16 I think that is when I became aware of it. To be
17 honest, I can't recall specifically being told about it
18 but I must have been, and ... sort of to go back, when
19 I first read the joining instructions for that PIM
20 course and -- you know, about how firearms officers must
21 not be separated, and how they can confer; in some
22 circumstances they may even have a debrief, but they can
23 confer when they are writing their initial statements or
24 whatever, I was pretty horrified, because I suppose
25 being an investigator you want everything to be

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1 completely sterile and there's no opportunity of taint
2 or whatever. However -- but I was aware that the signed
3 off ACPO and ACPOS policy in relation to firearms
4 officers were do not separate.

5 And I have been in situations where there have been
6 members of the public that have been potentially
7 witnesses to an incident and the circumstances are that
8 they all sit together. I recall a number of times as
9 a Detective Sergeant in Edinburgh getting a phone call
10 that there had been a serious assault or attempted
11 murder at a house, party or a pub, and going into
12 St Leonard's Police Station and the canteen being full
13 of members of the public with a police officer or police
14 officers supervising them and then they were taken out
15 one at a time to go and give their initial statement.

16 So in terms of my own experience, that wasn't, you
17 know -- it had happened before and I knew that it was
18 expressly stated in the ACPO/ACPOS guidelines for
19 firearms officers that they shouldn't be separated. So
20 whilst you are always hoping that there's as little as
21 possible ability to confer, for a whole range of
22 reasons, it wasn't anything -- I think I was given
23 that -- I can't specifically recall it, I think
24 Pat Campbell must have proactively told me about
25 the situation without me asking, you know, so: the

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1 officers are at the station, they are being supervised,
2 they have been given a warning about conferral. Because
3 I can't remember having any concerns about it, and that
4 the best I can answer to that.

5 Q. Do you remember if you were told who was doing the
6 supervising?

7 A. To be honest I think the -- now, whether I was told this
8 or whether I assumed it, I think the PIO had -- had
9 instructed that they were to go back to Kirkcaldy. So
10 the PIO would have been -- the duty inspector would have
11 been supervising the officers.

12 Q. Your expectation would be that the inspector -- we know
13 this was Inspector Kay who was the PIO that day -- that
14 Inspector Kay would be doing the supervising?

15 A. Yes, and by that, you know, during the morning executive
16 meeting I was aware that the PIM process was going to be
17 implemented so I knew that there would be further
18 supervision in terms of welfare, et cetera, coming
19 online.

20 Q. From a PIM manager?

21 A. Yes.

22 Q. Which we know was Conrad Trickett.

23 A. Yes.

24 Q. Would it surprise you to know that Inspector Kay wasn't
25 present supervising the officers in the canteen?

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1 A. If it wasn't Inspector Kay, then somebody should have
2 been.

3 Q. We've heard evidence from Pat Campbell in relation to
4 the decision not to separate. I think he listed three
5 factors. Can I ask you your views on this. So his
6 evidence was:

7 "Answer: So it was a serious consideration round
8 about the necessity to separate them~..."

9 This is the officers:

10 "... was it safe to do so? Was -- what was the
11 condition of the officers? Was it practical, based on
12 the accommodation with Kirkcaldy office, and was it
13 necessary?"

14 So safe, practical and necessary.

15 A. Yes.

16 Q. Do you have any views on those three factors?

17 A. I think if the decision had been taken to separate, then
18 logistically that would have been extremely difficult.

19 Q. Why do you say that?

20 A. So I know that there's been some concern about officers
21 being together in the same room. The difficulty would
22 be how to remove those officers, and especially if we
23 are saying it would be inappropriate for Fife officers
24 to then manage other Fife officers, if that makes sense.

25 So logistically you would need police officers to

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1 come into Kirkcaldy to manage each separate officer and
2 then find accommodation for each separate officer to
3 then be relocated to. I don't have a great -- I think
4 I have only been to Kirkcaldy twice, this being one
5 occasion, I don't think there would have been
6 appropriate accommodation within Kirkcaldy which would
7 mean that they would have to be taken from Kirkcaldy.
8 And bringing officers in to do that management,
9 supervision and transportation would have been a further
10 time delay, so they are going to have to remain together
11 until that logistically is put in place.

12 So I suppose there's the logistics side of it whilst
13 in principle if you take away the firearms guidance,
14 that they must not be separated, if you remove that from
15 your thought process, the logistics of it would be quite
16 difficult to do. And in the time to get everything
17 organised, they are still going to be together.

18 Q. In terms of safety, do you have any comments?

19 A. Maybe Pat is thinking of something that I can't think
20 of, but nothing is springing to mind initially.

21 Q. Or necessity to separate them?

22 A. I suppose the necessity would be the aspect of the
23 ability to confer with each other, and I know, you know,
24 for firearms officers that it is not recommended.
25 However, if there was appropriate advice, warnings, and

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1 appropriate supervision, then there wouldn't be
2 a necessity to separate. I think -- I think there's
3 a suggestion that -- you know, that the separation part
4 of it would be an easy to achieve objective and when you
5 look at resources and resources across Scotland, it's
6 not the same as comparing to the Metropolitan Police or
7 other areas. Scotland is 30,000 square miles, and to
8 move resources across areas to allow you to have enough
9 staff to deal with the management and separation and
10 relocation of those officers, in addition to carrying
11 out your initial fast-track actions, in relation to the
12 uniform response in terms of scenes and everything like
13 that, whilst it might be -- might be -- achievable, you
14 know, perhaps in Glasgow, you could have a death in
15 police custody in Fort William and there is -- or
16 Inverness or some other area of Scotland and it's about
17 how do you manage the resource to be able to deal with
18 that.

19 I think there's probably some thinking about how
20 that can be done, how you can ensure the integrity in
21 terms of conferral, and I don't know, maybe it's when
22 all officers have body cameras or whatever, they've got
23 to keep them on or something like that, but I think
24 that -- if there's an expectation in every death in
25 police custody that the officers involved are all going

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1 to be separate, I think we have to look at Scotland and
2 the area it covers and the logistics as how could that
3 ever be achievable because it will probably fail on
4 every occasion.

5 Q. So even if you'd been asked on that day to assist, the
6 logistics would perhaps have caused you difficulties as
7 well?

8 A. Yes.

9 Q. Yes. Do you have any views about whether a warning not
10 to confer is a sufficient safeguard in the absence of
11 supervision?

12 A. I mean, I suppose you would hope that the officers
13 completely understood from their own perspective and the
14 public's perspective why they shouldn't be conferring.
15 So, yes, a warning is definitely required. It probably
16 needs to be reinforced. Would I say that if you passed
17 the warning and there was no supervision, then that
18 would exclude any possibility of any chatter; you can't
19 do that.

20 Q. We've heard that officers did discuss matters. I think
21 you have explained why you would have concerns about
22 that from an investigating point of view. Can I ask you
23 about the recovery of uniforms, items of equipment, that
24 type of thing. If we can look at paragraph 252 of your
25 Inquiry statement. You say:

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1 "I wasn't involved in forensic recovery of the
2 response officers' uniform and equipment."

3 So you weren't personally involved in that task?

4 A. No.

5 Q. "I knew they were to be forensically recovered but who
6 was actually dealing with it I didn't know. I don't
7 know when it was recovered. It was on the list as one
8 of the priority actions. I don't know about any delay."

9 So you didn't have any discussions with Pat Campbell
10 about that?

11 A. So, no, I had a discussion with Stuart Houston and
12 Pat Campbell at the -- when Stuart Houston first
13 attended, you know, 12.15, 12.50, we had a sit-down chat
14 and that was part of Stuart's consideration for
15 a forensic strategy and -- so I knew that it was -- had
16 been actioned out, Stuart would come up with a forensic
17 strategy and then, probably once agreed by the PIRC,
18 that would be implemented.

19 Q. At paragraph 253, which we have on the screen, you were
20 asked -- or referred to a statement by DCI
21 Stuart Houston who says about 1215 he was at Kirkcaldy
22 Police Station and he was briefed by you and
23 Pat Campbell:

24 "I was instructed to undertake the role of crime
25 scene co-ordinator for the scenes that had been

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1 identified. I was also tasked with securing the outer
2 clothing, footwear and all equipment of the police
3 officers that had been in contact with the deceased at
4 the time of the incident and the immediate aftermath."

5 A. Yes. I had forgotten about that until I was reminded
6 when I was giving my statement.

7 Q. What was your expectation at that time as to when that
8 equipment would be recovered, when the uniforms would be
9 recovered?

10 A. In terms of one of the priority actions, as soon as
11 possible.

12 Q. I think at paragraph 256 you describe it as "an easy
13 task". If we can have that, yes:

14 "For me that would be quite an easy task to
15 undertake. It would absolutely be a priority."

16 Can you help the Chair understand how easy and how
17 much of a priority?

18 A. So in terms of the -- obtaining clothing, it's not
19 an unusual task to undertake. It's a routine task. And
20 the logistics of doing it, with the paper on the floor,
21 taking each item, bagging it, et cetera, that is --
22 I don't want to keep going back to rape, but every rape
23 victim, that is the task that the SOLO will undertake in
24 terms of taking clothing from a rape victim if it has
25 been a recent rape. So it's not an unusual task at all.

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- 1 Q. Were there any issues, as far as you knew, with
2 undertaking that task on that day?
- 3 A. So, no, I wasn't -- I think it probably just depends on
4 what else was happening in terms of priority actions,
5 and the resource to do that. And I know there was
6 a number of officers that had to go through that
7 process, so, you know, it would take some time. I'm
8 sort of saying "easy", what I mean it's not
9 a complicated task to do. I'm not saying it is easy
10 that, you know, you can run away and do it immediately
11 but as soon as possible once you've got your forensic
12 strategy as to how you are going to go about doing it
13 signed off then it can be undertaken.
- 14 Q. When you say "as soon as possible", can you help the
15 Chair understand how long that would take to organise
16 your strategy and arrange -- make arrangements to
17 recover items of equipment or uniform?
- 18 A. It -- to be honest it depends what else is happening at
19 the time. So it's probably unrealistic to say, you
20 know, I expect that it would be completed in two hours
21 or something like that, something else might have
22 happened or there might have been difficulty maybe
23 getting a suitable resource or something like that. But
24 within a few hours.
- 25 Q. We've heard evidence that items of equipment were left

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1 in the canteen, lying on the floor, lying against
2 a wall, on an open table; were you aware that that had
3 happened in the canteen?

4 A. No.

5 Q. Does that cause you any concerns, hearing that evidence?

6 A. They are secure. I suppose that is one thing. I would
7 have thought perhaps if the PIM was acting as a role as
8 a firearms PIM would, then he may have considered
9 securing that -- not forensically recovering the -- what
10 do you call it, the ... stab proof vests et cetera, but
11 he may have considered maybe removing them to a better
12 location if they were lying about.

13 Q. What would a better location be?

14 A. With, maybe if there was an office next door that there
15 was nobody in and they could have been transferred to
16 that room, so that the general traffic by somebody
17 getting up and making a cup of tea or whatever, or
18 spilling a cup of tea or -- you know, that sort of thing
19 would be prevented. And I think that is what is
20 recommended in terms of the firearms incident, the PIM
21 would recover items. Maybe not, you know, as in he
22 wouldn't go down the lines of taking people's clothing
23 from them, but in terms of general items that were used,
24 you know, the PIM for a firearms incident would take
25 possession of firearms, would take possession of CS or

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- 1 whatever. So I suppose in an ideal world that might
2 have been some of his considerations.
- 3 Q. If items of clothing such as protective vests had been
4 left lying around, would that be included in the sort of
5 things that could be --
- 6 A. Could have been considered by the PIM. You know, just
7 in terms of making -- they are secure, they were secure,
8 I suppose the issue is they could have been replaced
9 somewhere else for -- you know, for recovery thereafter.
- 10 Q. Thank you. Then I think in paragraph 256 you also
11 mention the possibility there was a shortage of female
12 staff and if that had occurred:
- 13 "... a female officer could be with the female
14 response officer while undressing and the item of
15 clothing could be handed to the male corroborating
16 officer who is separated by a screen or a door."
- 17 So this would be an arrangement where maybe there
18 was a limitation, I think?
- 19 A. So -- yes, I suppose my understanding -- I may be wrong,
20 I thought there was only one female officer involved.
21 There might have been more. I don't know.
- 22 Q. There was an officer called Nicole Short.
- 23 A. Yes, that is the one I was -- I don't know if there were
24 any others.
- 25 Q. There was another officer called Kayleigh Good.

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1 A. I suppose the bit is if you are having difficulty
2 identifying a female officer to corroborate that taking
3 of outer clothing, then you prioritise the male officers
4 and hopefully by the time you have worked through all
5 them you've got a female officer to hand. I wouldn't
6 expect that everything stopped until you got the female
7 officer because you wouldn't have to take the female
8 officer first, if -- you know, there is a bit about ...

9 But if it was so difficult that you couldn't get
10 another female officer to corroborate that, then there
11 could have been some consideration of what else you
12 could do to get round that difficulty, and I did mention
13 in my statement maybe use of a screen. Kirkcaldy is
14 a custody station, there must be a doctor's room in the
15 custody facility. Maybe I am being presumptuous but
16 I would expect there might be a doctor's screen in the
17 doctor's room.

18 Q. I think you also say:

19 "If you are referring to an outer jacket or stab
20 proof vest, there are no issues of dignity and such
21 items could be seized by a male officer."

22 A. Yes.

23 Q. So they wouldn't involve the female officer
24 removing items of her --

25 A. Into underwear, no.

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1 Q. No. Thank you. Can I ask you some questions about
2 forensic recovery at the scene. I appreciate you
3 weren't involved in that but we've heard some evidence
4 of something called tents and I wonder if we can look at
5 paragraph 150. I'm interested in you helping us maybe
6 understand about the availability of tents. So at 150
7 you say you were driving to Kirkcaldy, the weather
8 conditions were atrocious, and that was from Edinburgh.
9 We have heard of evidence about the weather in Kirkcaldy
10 that day and that it was raining:

11 "I phoned Pat Campbell en route to confirm tents had
12 been erected at the scene because at that time it was
13 sometimes difficulty getting tents at a scene to protect
14 a locus. I wasn't checking up on Pat doing things
15 right, I was checking if he had difficulty obtaining
16 tents because I could help him with resources."

17 What time was this, do you remember? This
18 conversation?

19 A. So it was when I was en route to Kirkcaldy. So the
20 executive meeting finished about ten past 10. I think
21 I tried to make a few phone calls after that. I would
22 have probably left Fettes half past 10/quarter to 11,
23 knowing I would have to be at Kirkcaldy for half past 11
24 for the Gold meeting. So I would probably say it was
25 maybe some time between 10.30 and 11 o'clock in the

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- 1 morning.
- 2 Q. What were the difficulties in -- perhaps I should ask
3 first of all: what are tents? Can you tell us what they
4 are used for?
- 5 A. Protecting a scene from adverse weather conditions or it
6 might be privacy, but basically to either -- to protect
7 a scene.
- 8 Q. What difficulties were there at that time in securing
9 the availability of tents?
- 10 A. I can't remember now. But there had been -- I was aware
11 at the time that there was -- there had been problems in
12 terms of tents. I don't know if it was the
13 establishment of Police Scotland or, you know, maybe
14 where resources had previously worked and there was
15 equipment maybe had been moved to another location, but
16 I was aware that there was -- there had been problems
17 getting tents and my thought was, if Pat needed tents,
18 I could -- I was thinking about roads policing division,
19 who drive very fast and have access to tents for road
20 traffic collisions. I thought, if he had a problem,
21 I could get in touch with roads policing and they could
22 make sure tents were available.
- 23 Q. At that time did response teams have tents available
24 themselves or in their vehicles?
- 25 A. No, no, no, they're large structures, you know. And Pat

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1 had informed me that the weather conditions at Fife were
2 bad as well, and that items had been removed already.

3 MS GRAHAME: Thank you.

4 I am conscious it is now just after 1 o'clock.

5 LORD BRACADALE: We will stop for lunch and sit at
6 2 o'clock.

7 (1.01 pm)

8 (The short adjournment)

9 (2.00 pm)

10 (Delay in proceedings)

11 (2.10 pm)

12 LORD BRACADALE: Ms Grahame.

13 MS GRAHAME: Thank you. I'd like to move on at this moment
14 to look at the minutes of Gold Group meetings that we've
15 looked at before. I would like to ask you some specific
16 questions about matters arising from those minutes.

17 I'm not sure if you have a hard copy of those in
18 your folder but we do have the minutes on the screen.
19 Are you comfortable using the screen for this purpose?

20 A. Yes.

21 Q. Thank you. So if we can look at the first Gold Group
22 meeting minute, agenda and minute, which is PS06491.
23 This is -- it is three pages, you'll see it on the
24 screen. We will see that that is from 11.30,
25 3 May 2015, which we understand is the first Gold Group

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1 meeting.

2 A. Yes.

3 Q. And that a number of people were present including
4 yourself, your name is there. In each of these meetings
5 the minutes where your name is mentioned are items 3 and
6 9 on each one, so let's look at item 3 first of all.

7 This is headed up, "Investigative process", and your
8 name is there alongside Pat Campbell's name.

9 A. Yes.

10 Q. So even though you were supporting him rather than take
11 the role of SIO, your name does appear first. Is there
12 a reason for that?

13 A. Probably rank structure, probably.

14 Q. Thank you. Was it -- it says:

15 "Initial actions and investigations strategy
16 outlined by Detective Superintendent Campbell in respect
17 of the following areas~..."

18 There are a number of bullet points given and we
19 have heard from Pat Campbell about these minutes.

20 Is that your recollection, that Pat Campbell spoke
21 to this item on the agenda?

22 A. Yes, I had just shortly before arrived at Kirkcaldy
23 Police Station, so you know my knowledge had been
24 through the previous telephone calls only, and things
25 had moved on from there, so I can't remember actually

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1 [REDACTED]
2 [REDACTED]
3 [REDACTED]
4 [REDACTED]
5 [REDACTED]
6 [REDACTED]
7 [REDACTED]
8 [REDACTED]
9 [REDACTED]

10 MS MAGUIRE: Excuse me, Chair, there is a matter I would
11 like to discuss with Ms Grahame. I don't think everyone
12 has to rise.

13 (Pause).

14 LORD BRACADALE: Sorry, Ms Boal. I will just give counsel
15 an opportunity resolve an issue.

16 MS MAGUIRE: Thank you, sir. I am sorry for the
17 interruption.

18 MS GRAHAME: Thank you. Let me just ask you what I am
19 particularly interested in. It is whether, as part of
20 that discussion about counter terrorism there was any
21 connection made between the fact that Mr Bayoh was black
22 and terrorism?

23 A. No.

24 Q. Can I ask you very briefly to look at resources, as
25 I understand it there was nothing significant raised in

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1 relation to item 9 on the agenda although your name was
2 mentioned next to that. So if we can look at item 9
3 which is on page 3. That relates to business
4 continuity.

5 A. Yes.

6 Q. Was there any significant aspects of the discussion
7 about resources at that stage in the meeting?

8 A. I can't recall.

9 Q. There is only one other thing I am I'm interested in
10 asking you about here. It's under item 1 actually and
11 it relates to the terms of reference. You've been asked
12 about this in your Inquiry statement, and we see that
13 the final italicised paragraph under item 1 is:

14 "To ensure the integrity, interest and reputation of
15 the Police Service of Scotland and its staff is
16 maintained and safeguarded."

17 Then underneath that in red, it says:

18 "Agreed that wording of terms of reference would be
19 considered and amended for future meetings to provide
20 terminology specific to circumstances of incident."

21 You have touched on this in your Inquiry statement,
22 that you had concerns in relation to the wording of
23 aspects of the terms of reference. Could you just
24 explain those in a little more detail to the Chair?

25 A. So this was one of my many pet hates. I don't know

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1 where this text originated from, the bit about ensuring
2 the integrity, interest and reputation of
3 Police Scotland, it must have circulated through
4 Police Scotland somewhere, maybe somebody had come up
5 with it as a good suggestion, but on a couple of
6 occasions, this being one, and I think on another two
7 occasions, at Gold meetings this would be included in
8 it, and I disagreed with that reference because actually
9 that can be interpreted that the reputation of
10 Police Scotland comes before everything else, and how
11 you undertake an objective impartial investigation.

12 So I cannot see why I wouldn't have raised it.
13 I think I would've raised it, because I had -- I have
14 previously or afterwards, so -- then I see later on that
15 it is removed later on, so there has to be a reason why
16 it's removed. So my -- although I cannot say for
17 certain that I raised concerns about it, that was one of
18 my pet hates, and it was removed, so my only assumption
19 is I have said something, it has been reconsidered and
20 it has been removed.

21 Q. Were you concerned that if that remained it would
22 influence the investigation in some way?

23 A. Just -- it would influence everything, or it could
24 influence -- I mean, it's a wrong statement to make.
25 You know, it's just wrong. We've all heard in recent

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1 weeks about trying to protect reputations can lead to
2 horrendous decision-making, so there's -- it's just
3 wrong.

4 Q. Thank you. Can we move on to the second Gold Group
5 meeting minutes. That's PS07268. Again, this was the
6 meeting at 1440 hours, it says. So this is after PIRC
7 have arrived. We have heard they were present at this
8 meeting and you were also present, as we see from the
9 top. If we can go straight to item 3, please and that
10 is on page 2. Again, item 3 is the investigative
11 process. Your name and Pat Campbell's name appear
12 there. I'm interested in two of the bullet points here.
13 The fourth bullet point reads:

14 "Discussion re PM [post mortem] is likely to be
15 carried out tomorrow afternoon~..."

16 That was 4 May, that was the Monday, the next day:

17 "... CSM [crime scene manager] to be deployed for
18 each loci. Formal identification of deceased required."

19 Can I ask you about the discussion regarding
20 post mortem is likely to be carried out tomorrow
21 afternoon. Do you remember any part of the discussion
22 about that matter?

23 A. I don't, sorry.

24 Q. You don't. Then when we look further down, the second
25 last bullet point on the page:

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1 "NOK strategy [next of kin strategy] -- Partner of
2 deceased made aware and statement noted, no formal ID
3 has taken place but ID has been done by a Facebook image
4 initially. NOK identified as sister and a FLO being
5 identified (2 x Police Scotland FLOs have been
6 identified 1 x DI as FLO to brief and co-ordinate)."

7 We have heard evidence about this. Do you remember
8 this part of the discussion?

9 A. Vaguely.

10 Q. Can I ask you to help us understand the distinction. It
11 says here "formal":

12 "No formal ID has taken place but ID has been done
13 by a Facebook image initially."

14 Can you explain what a formal ID is?

15 A. So that would be -- well, it could be by a number of
16 ways in terms of DNA, fingerprints, dental records,
17 something like that. Or more commonly by next of kin.

18 Q. When you say "more commonly", how is that identification
19 facilitated?

20 A. Usually just prior to the post mortem examination.

21 Q. How many family members would commonly be involved in
22 that identification?

23 A. I can't say for certain. I think that would be up to
24 the family. But maybe one -- it's usually -- it's
25 usually two actually, yes.

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1 Q. We've heard about the requirement in Scotland for
2 corroboration. Would that be partly because two sources
3 are required?

4 A. I'm not sure to be honest. I can't remember.

5 Q. How --

6 A. Actually maybe just one. One -- no, sorry. I can't
7 remember to be honest.

8 Q. That is absolutely fine. Compared to that sort of
9 method of formal identification, a number of methods you
10 have given, how would you describe an identification
11 being done by, as is exemplified here, a Facebook image?

12 A. So I suppose it depends on who has provided the Facebook
13 image. Are we certain that that image is the person
14 that we are wanting, how clear is the image, how recent
15 has the image been. So there's probably factors around
16 that. And also in terms of facial injuries to Mr Bayoh,
17 that could be a problem in terms of visual
18 identification by somebody who doesn't know him and that
19 could perhaps cause problems. My understanding was that
20 the officer was very clear it was Mr Bayoh. And my
21 understanding as well is there was other circumstantial
22 information that also suggested it was Mr Bayoh.

23 Q. The Chair may have evidence available in regard to
24 an officer called Samantha Davidson who used images that
25 were sent to her via WhatsApp and that there's other

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1 written information available to the Chair about
2 an officer who had been in the house where Mr Bayoh had
3 lived and had recognised an image on the fridge,
4 I think, and had then worked out that was someone he
5 recognised from his gym, I believe.

6 A. All right, okay. So it is probably easier if it is
7 somebody who knows or has had dealings with the
8 individual before as opposed to somebody who has no
9 knowledge whatsoever and trying to identify somebody
10 with potentially facial injuries from an old Facebook
11 image. You know. Yes.

12 Q. Is it acceptable in terms of delivering a death message
13 to a member of the family or a close contact with the
14 deceased to use this less formal/informal method where
15 perhaps there is a connection made?

16 A. I think it depends on how certain the officer is in his
17 or her identification. If they are very clear that it
18 is the same person and there's other supporting
19 information, yes, you would. Because you are not going
20 to get formal identification until a later point so it's
21 difficult to get to formal identification until you tell
22 somebody that, you know, there is a strong possibility
23 that that person is who we think it is.

24 Q. So in connection with communicating with the family,
25 there would be that informal identification first of

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1 all, then leading at a later stage to a more formal
2 identification?

3 A. Yes.

4 Q. Thank you. Could we move on to the next minute, please,
5 which is PS03139. Again, if we can begin on item 3.
6 These are the minutes for a Gold Group meeting that took
7 place at quarter past eight in the evening that day.
8 You again were present at that meeting and I'd like to
9 look at item 3, "Investigative process", again your name
10 appears there. There was a discussion, an outline given
11 by Pat Campbell at that time. Do you remember this
12 meeting?

13 A. I am sorry, I've got really little recollection of this
14 meeting at all.

15 Q. Were you still -- it says you were present, do you
16 remember that --

17 A. Yes.

18 Q. -- you were there?

19 A. I think it was reminded to me when I was giving my
20 statement that I was there. I have little memory of
21 this at all.

22 Q. I'm interested in item 5 on this agenda. You will see
23 at the bottom it says, "Family concerns", I will just
24 read this out to you. It says:
25 "Chief Superintendent McEwan discussed

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1 brother-in-law of deceased, he is part of an independent
2 advisory group and had advised the initial attending
3 Officers that he knew Mr McEwan and requested that he
4 attend and speak with him within 24 hours."

5 We have heard from Garry McEwan that he had been to
6 the visit the family prior to this Gold Group meeting.

7 A. Yes.

8 Q. Then it says:

9 "Ch Sup and Ch Insp Shepherd attended at home
10 address of [next of kin], highly charged environment,
11 deceased's partner Collette and extended family within,
12 family concerned that early contact they had was
13 purposely vague. They were unhappy they had not been
14 told anything about who contacted the Police and
15 Ambulance. Ch Sup provided them with an understanding
16 of events. Ch Sup discussed the Role of the PIRC and
17 reassured them it would not be P Division officers
18 investigating the incident."

19 It says:

20 "Task ..."

21 There is no name given as to who was given the task:

22 "... Family crave reassurance and are asking about
23 witnesses et cetera they do not wish anything publicised
24 until they inform deceased Mother who is in London."

25 Do you remember anything about that part of the

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- 1 conversation?
- 2 A. Can I have a look at my initial statement?
- 3 Q. Please do. Yes.
- 4 (Pause).
- 5 A. It doesn't add anything to it. I remember that -- the
6 update from Mr McEwan around the family's upset,
7 concerns. In relation to the task, I don't have
8 a recollection of that, sorry.
- 9 Q. Thank you. We have heard evidence from the family that
10 their concern at that time was that Mr Bayoh's mother
11 was in London and they wished her to come up to
12 Scotland, which -- as I understand, the intention would
13 be the next day, after 3 May, the 4 May -- and that they
14 wanted her to be present. And that would be done before
15 the post mortem was carried out. Do you have any
16 recollection of that being discussed at the Gold Group
17 meeting?
- 18 A. I'm not saying it wasn't but I don't have a recollection
19 of that.
- 20 Q. Do you have any recollection of being advised or hearing
21 a discussion that the family would not cooperate, would
22 not attend the post mortem to ID Mr Bayoh?
- 23 A. No, I knew they were extremely upset with
24 Police Scotland but I can't recall anything to say that
25 they would not identify Mr Bayoh prior to post mortem.

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1 Q. Thank you. Then can we turn on to the next page of
2 the minutes, so this is page 3. It's -- this is towards
3 the end of item 5 that we are discussing. You will see
4 that the paragraph immediately above the task:

5 "Ch Sup discusses Family desperate to know about
6 [post mortem], and also arrangements on having them
7 conveyed to mortuary in Edinburgh."

8 A. Yes.

9 Q. Do you remember that part of the discussion?

10 A. No, but in terms of the arrangements for having the
11 family conveyed to the mortuary, that would be a PIRC --
12 sorry, not a PIRC, a FLO responsibility.

13 Q. So we may have heard that it would normally be the FLOs
14 to help the family travel to the mortuary --

15 A. Yes.

16 Q. -- to do that. It said:

17 "Task -- To address all family issues raised."

18 Do you remember having any involvement in that or
19 any knowledge about how that would be addressed?

20 A. I don't, sorry. I can't recall that.

21 Q. Then if we can look at the final page. Thank you. You
22 will see in the middle of this, just above the middle of
23 the screen:

24 "Chief Superintendent McEwan not adverse ..."

25 Do you see that paragraph?

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1 A. Yes.

2 Q. "... not adverse to going back to house if required to
3 assist with retrieving items for the baby of
4 Collette Bell but Telephone contact to be made by PIRC
5 re the family and arrangements et cetera for conveying
6 to Mortuary."

7 Do you remember any discussion about that?

8 A. I'm sorry, I don't.

9 Q. Do you remember if PIRC were part of a discussion about
10 the family being conveyed to the mortuary?

11 A. I can't, to be honest.

12 Q. Thank you. As I understand it, you did not attend
13 subsequent Gold Group meetings on other days?

14 A. No, I didn't. That was my on-call duties finished.

15 Q. So you were present in Kirkcaldy on 3 May but for the
16 dates 4th and onwards you were not present?

17 A. No, no.

18 Q. Thank you. Can I ask you a point that I'd like to
19 clarify. We talked yesterday about evidence that might
20 assist the investigative team and the investigation.
21 I'm going to read out a paragraph from a statement
22 that -- a written statement to the Inquiry that
23 the Chair has available to him, and it is from a former
24 police officer called PC Austin Bartlett [sic] and we've
25 heard evidence that former officer Bartlett had been

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1 a serving officer but on the day in question on 3 May he
2 had also had a role as a Police Federation officer.

3 I am going to read out a paragraph and ask about
4 whether you think this would have amounted to something
5 of evidential value to the investigation.

6 A. Okay.

7 Q. So it -- for those sitting behind me, it's SBPI 00126
8 and it's paragraph 34. Sorry, I said Bartlett, didn't
9 I -- Austin Barrett, sorry I apologise. So I am reading
10 this from his Inquiry statement:

11 "Alan and Craig came in ..."

12 Now, we have heard evidence that Alan is PC
13 Alan Paton, as he then was, and Craig is serving officer
14 PC Craig Walker and we have heard evidence they were the
15 first two officers at the scene at Hayfield Road on
16 3 May. So:

17 "Alan and Craig came in and said they needed
18 Federation help or advice. I jokingly said~..."

19 This is Austin Barrett talking:

20 "... I jokingly said I hadn't started work yet, and
21 I didn't start until 0800, because I didn't think they
22 were really wanting anything. I thought they were just
23 having a laugh, and then they said that they needed
24 advice because they had just killed someone. Craig said
25 [and this is in quotation marks] 'We've just killed

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1 someone'. I am pretty sure that is exactly what they
2 said."

3 Now, we've also heard evidence from both Paton and
4 Walker in relation to this matter and the Chair has that
5 evidence as well, and at least there's a denial about
6 whether that was actually said or not. But looking at
7 this statement from the officer, Austin Barrett, would
8 this have been of -- some of the evidence of evidential
9 value to the investigation into the events surrounding
10 Mr Bayoh's death?

11 A. Yes.

12 Q. How would that information have been shared with the
13 investigative team?

14 A. In terms of a Federation rep~...?

15 Q. He's a Federation rep on that day, he is a serving
16 officer, he is present in Kirkcaldy Police Office. How
17 would you have expected that information to be shared
18 with the investigative team?

19 A. Well, I suppose it's a police officer's responsibility
20 to make sure that any information that may be relevant
21 to an investigation is highlighted to the individual who
22 is conducting that investigation. So PC Barrett, is it?

23 Q. Yes, PC Austin Barrett.

24 A. When there is something as significant as, "We've just
25 killed somebody", I would have thought that he would

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1 have brought that to the attention to somebody from the
2 investigation team.

3 Q. You've used the word "significant" and you previously
4 talked about it being helpful to the team investigating
5 the death, how -- how would that assist the
6 investigative team?

7 A. In terms of the officer's comments about, "We've just
8 killed someone", it gives some indication as to what
9 they thought was the level of restraint used perhaps.
10 You would have to put that to the officers concerned,
11 but it does give some indication as to the potential
12 level of restraint used.

13 Q. So would that be a piece or an adminicle of evidence
14 that could be used to consider in relation to
15 the hypotheses that were forming and developing?

16 A. Yes.

17 Q. Thank you. Can I ask you about something else that you
18 mention in your Inquiry statement. So this relates to
19 paragraphs 341 and 342 in your Inquiry statement. We
20 will see these on the screen.

21 You talk here about starting service with Lothian
22 and Borders Police:

23 "In terms of equality and diversity training I can't
24 recall any such training during my initial probationary
25 period. It became a priority if the early 90s. It

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1 would've been the early to mid 90s all officers and
2 staff in Lothian and Borders Police had to attend
3 a mandatory five day diversity training course. The
4 programme of training lasted many years until all
5 employees were trained. I think diversity and equality
6 training was then transferred to be providing during
7 probationer training, or if somebody needed retrained,
8 centrally at the Scottish Police College for the 8
9 forces and latterly Police Scotland."

10 That would be the eight legacy forces?

11 A. Yes.

12 Q. I'm interested in the training that was provided in
13 relation to equality and diversity, can you describe the
14 content of this five-day diversity training course?

15 A. I think it might have been slightly less than five days.
16 But -- can I look at my SCOPE record?

17 Q. Please do, yes. (Pause).

18 A. So the course I am referring to there -- it's a couple
19 of courses, it is has equality and diversity in 1993 but
20 I think the course I am referring to is the 2003, it was
21 16 to 18 June, if this is correct. I have to say there
22 was some problems previously with SCOPE when we
23 transferred into the single force but -- so this was
24 a course that was -- it was outwith police premises, it
25 was neutral premises, and it was probably the first

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1 course I had ever been on where the majority of inputs
2 was from people with lived experience, so it wasn't
3 police officers and it wasn't support and advocacy
4 services relaying somebody's experience, so this was
5 lived experience.

6 I remember it was really impactful at the time.
7 Looking back on it, it was probably a training course of
8 its time, you know, things have moved on, it was clear
9 that the -- some of the situations were heartbreaking in
10 terms of experiences people had. They weren't all
11 negative experiences of police, people had very good
12 experiences, but it was -- it was the level of different
13 experiences that people had that was probably quite
14 shocking.

15 But the training was about equality, about treating
16 everybody equal. And, as I said, that was probably
17 training of its time and things have moved on now.

18 Q. When you say "equal", do you mean the same? We've heard
19 some evidence that people feel treating everyone the
20 same is --

21 A. Yes, it was --

22 Q. -- fair or --

23 A. I suppose it was like colour-blindness, treating
24 everybody the same but we know that actually people of
25 different ethnicities have -- you know, their ethnicity

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1 is absolutely vital in terms of their personal
2 experience from harassment, discrimination, you know,
3 micro-aggression or whatever. So the bit is you have to
4 look at the individual as an individual and assess what
5 their individual needs will be. So I think it was
6 really, really impactful but probably training of its
7 time.

8 Q. In relation to the message, perhaps training of its
9 time?

10 A. Yes.

11 Q. But I am interested in the idea that this course --
12 you've said it was -- was it the first course when you
13 learned about lived experience and that was part of the
14 training course, and I'm interested in do you think that
15 type of training course is more helpful in sharing
16 messages with officers than just perhaps online training
17 or --

18 A. Oh, of course.

19 Q. -- just having a lecture?

20 A. Of course, of course. Yes.

21 Q. Does that help officers comprehend the message perhaps
22 better?

23 A. Absolutely. And, you know, there has been other courses
24 where, as I have said, support and advocacy services
25 maybe explain the impact of police practice or a police

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1 interaction with somebody. I think it is -- and that is
2 really helpful, don't get me wrong, it is really, really
3 helpful but actually to hear it from somebody who has
4 experienced it themselves and that, you know, ability to
5 recognise and see how exactly that person has felt is
6 really important.

7 Q. I think, correct me if I am wrong, but did you say that
8 was quite a powerful way of sharing --

9 A. Yes, I remember going back and -- you know, you went
10 individually, you didn't go with the people that you
11 were working with, so it was a mixture of people from
12 across the force that went, and every time somebody had
13 gone on a course came back there was always chat about
14 it because it was a really powerful course.

15 But unfortunately it's the bit about how you keep
16 that at the forefront of people's minds, so there is
17 equality and diversity thread through quite a lot of
18 training, I think every training course has equality and
19 diversity as that golden thread that runs through it,
20 but I have never been on a course like that since then,
21 you know where it has that real impact.

22 Q. So it can be a challenge keeping people up-to-date and
23 you -- 2003, that course was?

24 A. Yes.

25 Q. Was that a course that every member of the

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1 Police Service was required to attend?

2 A. Yes, yes. I mean, I think it took years to -- you know
3 for every member of police -- every police officer, and
4 members of police staff to go on to that course, it took
5 significant time.

6 Q. Then looking at paragraph 342 of your Inquiry statement,
7 you say:

8 "In terms of other aspects I think it has become far
9 better. The Equality and Diversity Steering Group have
10 improved standards. Each area has to provide evidence
11 of how they were thinking about equality and diversity
12 in their area in policy, practice and in strategy. My
13 area was in depth because I had a whole range of other
14 areas which perhaps would have more sensitivities around
15 protective characteristics. On a quarterly basis we had
16 to evidence what we were doing and how strategies were
17 being put into practice. In addition, around the 1990s
18 in Lothian and Borders Police, diversity was a 'core
19 competency' which had to be evidenced during all police
20 officers' appraisals; when applying for competency
21 threshold payments and when applying for promotion. In
22 relation to Police Scotland there were other aspects
23 that I found beneficial, particularly being a member of
24 the Equality and Diversity Steering Group."

25 There is a lot of information in there. Can I ask

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1 you some further questions. Primarily the Equality and
2 Diversity Steering Group, and you said they had improved
3 standards, can you tell us who they are?

4 A. I probably -- since I have been retired for a number of
5 years, I have probably got names of the groups muddled
6 up. I did have a look online and there were two groups,
7 there was one chaired by the DCC which was strategy
8 group which I attended but it was very high level. And
9 then there was one underneath that, which I think it was
10 called Equality and Diversity External Advisory Group
11 or -- it was something like that. And this probably had
12 something to do with the Equality Act and the duty on
13 public authorities in terms of their general duties, and
14 then their specific duties to report on how we were
15 achieving the equality outcomes and our requirement to
16 review policy and process with equality -- human rights
17 and equality impact assessments et cetera.

18 Then from my area because protecting people at risk,
19 which was my area of business, was one of the five key
20 priorities for Police Scotland in annual action plans,
21 it was how those -- how we were delivering that, taking
22 cognisance of other strategies and legislation which
23 included the Equalities Act. Can I carry on or is that
24 too ...?

25 Q. Please do, no this is very interesting. I am hoping we

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1 will hear more evidence about this in future but I would
2 like to get your evidence now.

3 A. So for me we can sometimes become a bit siloed in our
4 own area of business, and you know, be really focused on
5 our own areas and responsibilities, but this group was
6 really good because it had representation from lots of
7 different areas of Police Scotland. So how they were
8 considering -- you know, it might have been human
9 resources, how they were considering equality and
10 diversity, it could have been lack of female officers in
11 specialist roles, it could have been a workforce plan,
12 you know, for that -- giving opportunity to people with
13 protected characteristics. So for me it was a step out
14 of my own silo for a wee while and actually seeing what
15 was happening across the force in terms of equality and
16 diversity, which I thought was really interesting.

17 Q. So this was not specific or exclusive to Lothian and
18 Borders Police?

19 A. No, this is in Police Scotland.

20 Q. This was in Police Scotland?

21 A. This was in Police Scotland.

22 Q. A national interest in this?

23 A. Yes, and the other really good point was the staff in
24 National Safer Communities and Police Scotland were
25 really proactive, and you know, we had to put quite

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1 a lot of inputs in, if you can imagine I had domestic
2 abuse, so how that impacts on, you know, protected
3 characteristics or honour-based violence, how that
4 impacts on protected characteristics. So it was really
5 good because Safer Communities gave me quite a lot of
6 assistance, and they were good advisers in terms of how
7 everything could fit together with the other Scottish
8 Government strategies and Police Scotland's priorities
9 and equalities, so it was -- it was a step out of my
10 little silo.

11 Q. And they would help you with this reporting element of
12 it?

13 A. Yes.

14 Q. And evidencing things that you were doing?

15 A. Yes.

16 Q. Thank you. You've said that in Lothian and Borders at
17 least diversity was a core competency --

18 A. Mm-hm.

19 Q. -- that had to be evidenced during appraisals. Was that
20 across Police Scotland that it would be a core
21 competency or not?

22 A. I don't know, there was a difficulty at the beginning of
23 Police Scotland which -- it was about those eight legacy
24 forces coming together and which competency framework
25 was going to be used, so there was a bit of time where

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1 in actual fact appraisals -- they were working out how
2 to have a standardised appraisal across Scotland. It
3 was just at that time where you were pulling together
4 eight forces and everybody was doing things differently,
5 so to be honest I can't remember.

6 Q. Thank you. I'd like to ask you about a comment you make
7 in paragraph 344 of your Inquiry statement. You say:

8 "When I first started the police, equality and
9 diversity was never mentioned. There was very little
10 training or awareness or thought given to the differing
11 needs to individuals. But policing has become more
12 about the wellbeing of communities as opposed to it
13 being all about investigating and arresting criminals.
14 More and more police time is spent dealing with
15 wellbeing and more often than not those at need are
16 those who are marginalised or who have situational
17 vulnerabilities."

18 You say -- when did you first start with the police?

19 A. 1987.

20 Q. At that time equality and diversity was simply not
21 mentioned?

22 A. Maybe that is a bit too strong, I can't say it was never
23 mentioned but ... yes.

24 Q. And:

25 "... very little training or awareness ... given to

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1 the differing needs~..."

2 Does that also tie in with what you said a moment
3 ago, that the training in 2003 was of its time --

4 A. Mm-hm.

5 Q. -- in relation to the message that was being delivered?

6 A. Yes.

7 Q. "... policing has become more about the wellbeing of
8 communities~..."

9 I'm interested in how there has been a change in
10 policing, particularly in relation to equality and
11 diversity?

12 A. So even the introduction of that in the Police and Fire
13 Reform Act, so in terms of police responsibilities being
14 to protect life and properties and all the other bits
15 and pieces, it was added in, in the new Act, that our
16 responsibilities were in partnership to improve the
17 wellbeing of communities.

18 So to a certain extent you could possibly say that
19 that was now a statutory responsibility in terms of
20 improving wellbeing of communities. And I suppose
21 working more closely with partner agencies and the bit
22 about those who are marginalised have situational
23 vulnerabilities, so that would, for me a clear example
24 of that is -- I don't like the title of it but that is
25 another pet hate which we won't go into, so the

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1 Vulnerable Person Database, so it is when a police
2 officer will attend a report or come across a person who
3 they believe -- they've got concerns about their
4 wellbeing or future wellbeing, there is an opportunity
5 to create a concern form and it is about child concern
6 and child protection, it is about adult concern and
7 adult protection, hate crime is recorded on it, domestic
8 abuse is recorded on it, and youth offending is recorded
9 on it. And what the hope for the VPD, which is
10 national, is that you can start seeing some factors in
11 terms of repeat victims or repeat escalation of concern,
12 and it can be used -- if there is no statutory power to
13 do so it can be used with consent to share information
14 about the police officers' concerns to either third
15 sector support and advocacy services or to statutory
16 partners. And then if there continues -- what you are
17 wanting -- what it was put in place for really is early
18 intervention, to stop an escalation of a problem and to
19 make sure that that -- those wellbeing/welfare needs of
20 individuals are considered at an early stage.

21 Q. In relation to the database that you have mentioned, the
22 vulnerabilities database?

23 A. It's the Vulnerable Persons Database.

24 Q. Sorry vulnerable persons?

25 A. VPD.

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1 Q. Thank you. You have talked about the recording of hate
2 crimes?

3 A. Yes.

4 Q. Would that include crimes involving allegation of some
5 sort of racist allegation?

6 A. Yes.

7 Q. As well as others, no doubt?

8 A. Yes.

9 Q. Would it also include complaints of racist behaviour?

10 A. Complaints against the police?

11 Q. Yes.

12 A. Yes, because there would be a complainer for the hate
13 crime itself. So the incident and the victim would be
14 recorded on VPD and -- sorry, that is where -- for the
15 hate crime -- for the statistics that are required by
16 Scottish Government, that all comes from VPD as well, so
17 it's auditable in terms of its information because it is
18 used for national statistics.

19 Q. When did that VPD, when did that database get brought
20 into existence?

21 A. So probably 2014. Maybe -- maybe the late end of
22 2013/2014.

23 Q. Obviously the Equalities Act came into force -- well,
24 came into existence in 2010.

25 A. Yes.

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1 Q. Where was there a collation or a record of data in
2 relation to hate crime or allegations involving racism?

3 A. I think --

4 Q. Where was it kept then?

5 A. I think each individual force would have kept statistics
6 but as a national picture of hate crime, that comes from
7 VPD.

8 Q. And that was created in 2014?

9 A. So the Vulnerable Persons Database I think was
10 a Strathclyde database, it was amended -- it took some
11 times in terms of what else was going to be collected
12 and what -- you know, the information on it. But I'm
13 sure that was all complete by some time in 2014.

14 Q. Thank you. Can we look at 345, please:

15 "I think the main thing was about the contact with
16 the family. Not that I made any decisions around that,
17 but that is the one part that I found was going to be
18 significantly difficult in that if we didn't get it
19 right then there would be more heartache and I don't
20 know if we got it right. I think the family said we
21 didn't get it right, so that for me suggests we didn't
22 get it right.

23 Can you help the Chair understand what these
24 difficulties were and particularly how they could be
25 improved?

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1 A. So I think that -- I think what I am referring to is the
2 communication with the family.

3 Q. How could that have been improved?

4 A. So identification of -- maybe not identification, but
5 the ability for FLOs to be deployed quicker. I think
6 there was -- there's an opportunity to -- there's
7 learning in terms of the briefing for death messages.
8 And I think especially for cases involving police
9 officers and restraint, I think there's opportunities
10 for PIRC as well.

11 Q. To improve their communication?

12 A. Yes, I think we've all got improvements to make.

13 Q. Thank you. On reflection have you got any further
14 suggestions about improving communication with families
15 that you would like the Chair to know about?

16 A. I think it is really difficult and I know that there
17 was -- the time delay was not as it should have been in
18 terms of making contact with the family. It's the
19 police responsibility to deliver a death message and
20 I completely get that and I don't know any other agency
21 who could maybe pass a death message. I just think that
22 when there is a death in police custody involving police
23 officers, it is always going to be really difficult to
24 pass that death message because of the circumstances of
25 police involvement.

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1 So there was probably, you know, three layers of
2 trauma for Mr Bayoh's family. So you have the trauma of
3 finding out that your loved one has died, you have the
4 trauma of learning that actually he died in the custody
5 of the police, and then you've got the additional trauma
6 of -- that members of the family themselves may have
7 experienced racism or discrimination or negative life
8 events because of their ethnicity and if that has been
9 caused by the police before, there is not going to be an
10 awful lot of trust and confidence. Or if they have
11 heard about problems with the police before from family
12 or friends or the media or other events that have
13 happened in the world.

14 So in actual fact there's three layers of
15 potential -- you know, not potential, significant trauma
16 in this case and I think that it's going to be really
17 difficult on any occasion for police officers to be able
18 to pass a death message when the police have been in
19 contact with families and be able to assist with
20 reducing trauma or assisting -- not reducing trauma but,
21 you know, getting that trust and confidence, so I don't
22 know, I don't know whether if a person is in custody,
23 now that there is NHS provision in custody -- and this
24 is just an off the wall suggestion to be honest, but if
25 there was a death in custody and there is now NHS in

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1 custody facilities, whether a health professional could
2 pass a death message. Or the circumstances if the
3 individual died in hospital, it could be a health
4 professional that passed the death message to take that
5 difficult situation between family and police. Because
6 I know it's not a PIRC responsibility and whilst I would
7 hope that PIRC would then parachute in, I think it is
8 really -- it is really difficult. I can't think of how
9 we are going to get around it, but I think this case,
10 just for a number of reasons that I have probably -- you
11 know, we've got to think about the learning from it, but
12 cases going forward I think it is really difficult how
13 police officers can pass a death message when the person
14 has died in custody.

15 Q. At the very least do you think that officers who are
16 given that task would perhaps benefit from more guidance
17 about an effective way of delivering a death message?

18 A. Probably, yes. I mean, I think further guidance might
19 assist. I still think that there is -- it is going to
20 be a difficult situation whatever happens.

21 Q. More generally, looking back now, do you have any other
22 comment on things that you are aware that could perhaps
23 have been improved or done better? Leaving aside the
24 comments you have already given us about the family and
25 communication.

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1 A. I suppose from -- I'm probably thinking about that day
2 and actually how that day went, the amount of meetings
3 that took place within a short space of time when in
4 actual fact allowing Pat Campbell to have a better
5 overview, oversight of what was happening and allow
6 Pat Campbell and PIRC to you know really, really
7 dovetail in together in terms of PIRC's decisions and
8 PIRC's requirements thereafter. But it just seemed that
9 we just went from meeting to meeting to meeting to
10 meeting. You know, in actual fact when are you going to
11 allow the SIO to, you know, ensure that the actions are
12 getting the right priority and progressed, and when are
13 you going to allow the time for the SIO to act in
14 support of PIRC on their arrival. So that is just
15 a general observation.

16 Q. So do you think that the number of meetings that had to
17 be attended, we've talked about Gold Group meetings
18 we've talked about briefings we've talked about
19 a teleconference meeting at 9.30 in the morning, we've
20 talked about a number of different meetings, do you
21 think that actually hindered the investigation?

22 A. I don't know if it hindered it but it maybe could have
23 assisted Pat Campbell and thereafter Pat Campbell and
24 the PIRC to have a bit more time in terms of the
25 investigation -- sorry, I keep saying the investigation,

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1 but those fast-tracked actions at the beginning as
2 opposed to attending the meetings. In terms of the PIRC
3 briefing, you know, that time could have been taken up
4 between Pat Campbell and Keith Harrower having
5 45 minutes together, sitting in a room and going through
6 things face-to-face as opposed to the initial PIRC
7 briefing with the ACC and you know a few others and then
8 doing that thereafter, or having that conversation
9 thereafter.

10 So it's about probably managing time better. I know
11 it's important, you know, for the ACC as chief officer
12 to be able to have that information because at the end
13 of the day his responsibility is as a chief officer but
14 there is -- you know, the amount of meetings that were
15 conducted that day, it just seems you had half an hour
16 or an hour before the next meeting took place, so ...

17 Q. Could you give me one moment, please.

18 A. Yes.

19 MS GRAHAME: Thank you. (Pause). There are one or two
20 further matters I would like to raise before I conclude
21 my examination. It shouldn't take long, but I am also
22 conscious of the time for the stenographer.

23 LORD BRACADALE: We will take a break. But, before we do
24 that, I wondered if you could clarify one matter for me,
25 Ms Boal.

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1 A. Yes.

2 LORD BRACADALE: This morning just before and after the
3 break you had a discussion with Ms Grahame about the
4 hypothesis that there could be racial motivation on the
5 part of the officers. Do you remember that discussion?

6 A. Yes, I do.

7 LORD BRACADALE: Can I just clarify that what you were
8 telling me was that you and your colleagues were
9 conscious that that was a hypothesis that required to be
10 kept live and investigated; is that correct?

11 A. Yes.

12 LORD BRACADALE: Yes. You were not suggesting to me that
13 you or any of your colleagues had already reached a view
14 that that had been the case; namely, that there had been
15 racial motivation?

16 A. No, that was part of what would come out then of the
17 investigation stage. It was a possibility but it hadn't
18 been excluded. It was still ongoing.

19 LORD BRACADALE: Thank you very much. We will take
20 a 15-minute break.

21 (3.11 pm)

22 (A short break)

23 (3.31 pm)

24 LORD BRACADALE: Yes, Ms Grahame.

25 MS GRAHAME: We have heard that the post mortem took place

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- 1 on the Monday, 4 May.
- 2 A. Yes.
- 3 Q. We've also heard evidence that there was a disclosure
4 made to police officers, the officers who had attended
5 the incident at Hayfield Road, a disclosure regarding
6 the -- some preliminary information about the cause of
7 death. Were you involved in any discussions about
8 whether that was an appropriate thing to do, disclose
9 post mortem information to the officers?
- 10 A. No, my whole involvement finished at the end of the
11 Gold Group meeting on the Sunday. I had no further
12 communication with the officers involved in the
13 subsequent investigation.
- 14 Q. Did you know that there was to be a disclosure to the
15 police officers?
- 16 A. No.
- 17 Q. Were you aware that that would be in advance of the
18 family being given information about the cause of death?
- 19 A. To be honest, after the Sunday, I had no conversation
20 with anybody in terms of what was happening or what
21 happened thereafter.
- 22 Q. Would it have caused you concern that officers who had
23 failed to give initial accounts or basic facts or
24 operational statements were being given information
25 about the cause of death from the post mortem on the

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- 1 Monday evening?
- 2 A. So they never gave statements until ...?
- 3 Q. 4 June, over a month later.
- 4 A. So I wouldn't have agreed to provide information to the
- 5 officers following an initial post mortem examination.
- 6 Q. Why not?
- 7 A. Because they haven't given us a statement yet, you know,
- 8 so it's the bit about why would you provide sensitive
- 9 information in terms of the results of a post mortem to
- 10 a witness who hadn't provided a statement?
- 11 Q. What would your concerns have been if that information
- 12 was to be provided?
- 13 A. That if the information was in some way negative to
- 14 their viewpoint, it might change the way that they would
- 15 provide their statement. It is just -- it's just not
- 16 appropriate.
- 17 Q. We have heard some evidence that it may have been
- 18 because the officers didn't wish to provide statements
- 19 until they had information about cause of death.
- 20 A. Hmm.
- 21 Q. There may have been a view that if they were given the
- 22 information they may then decide to provide statements.
- 23 Would that have altered your view?
- 24 A. I don't think it would have.
- 25 Q. Thank you. In terms of if that information was provided

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1 to officers prior to the family being given that
2 information about the post mortem, would you have
3 concerns about that?

4 A. Absolutely.

5 Q. What would those be?

6 A. Because the family takes precedence against anything.

7 Q. Can I ask you about -- just returning for a moment in
8 relation to status, I asked you earlier about
9 Austin Barrett, and the comment that I read out which
10 was from Craig Walker:

11 "'We've just killed someone". I'm pretty sure that
12 is exactly what they said."

13 That is his recollection of the events and PC Paton
14 was in the room at the time and you commented on that
15 earlier and the importance of that. You have also said
16 yesterday did it amount to reasonable grounds:

17 "Answer: Looking at evidence, did it amount to
18 reasonable grounds to suspect a crime had been committed
19 and there was a person responsible, and if you had
20 reasonable grounds that of itself could change the
21 status of a person from witness to suspect."

22 A. Yes.

23 Q. Thinking about the comment that is contained within this
24 statement from Austin Barrett, "We've just killed
25 someone", would that have been enough to change the

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1 status of an officer from witness to suspect?

2 A. That on itself, possibly not. I think if it was
3 supported by other evidence to show the restraint and if
4 the restraint looked like it was excessive, you know
5 I think it is the bit about was -- was the response by
6 the officers appropriate to the threat that they faced
7 and the type of restraint and the length of restraint,
8 could that be seen as reasonable. I suppose the fact is
9 you could -- you could be -- it could be a life and
10 death situation and you use force, as a firearms officer
11 can, that given the circumstances it may be still
12 legitimate to use that force.

13 So it could be that the danger and the restraint was
14 absolutely necessary, so you know, "We've just killed
15 that person", I think it's absolutely significant in
16 terms of that continued investigative strategy as to
17 what exactly happened and what evidence you've got of
18 restraint, force, and threat posed to officers.

19 Q. Would you have wanted more information about
20 the circumstances before forming a concluded view about
21 that?

22 A. I think some other supporting evidence that the
23 restraint was excessive.

24 Q. Thank you. I had a comment that I put to Garry McEwan
25 that had been made by a John McSporran. He, we've

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1 heard, is involved with PIRC?

2 A. Yes.

3 Q. Or he was at the time. And this was a suggestion made
4 by him in a witness statement that the Chair has
5 available to him. Can I -- I will read it out and then
6 I'll ask you to comment:

7 "Police Scotland~..."

8 It relates to statements, obtaining statements:

9 "Police Scotland could have instructed or ordered
10 nine officers to provide a statement on the grounds that
11 it within their standard of professional behaviour,
12 ie constables give and carry out only lawful orders and
13 instructions. Failure to obey a lawful order may
14 constitute misconduct under the Police Scotland conduct
15 regulations 2014."

16 Would you have any comments about that statement
17 that Mr McSporrnan has made? Do you agree with that?

18 A. I think Police Scotland could have requested officers to
19 provide statements. I think their legal advice is
20 important; that they are afforded legal protection or
21 legal advice like any other person and, if we had
22 instructed them to do so, the quality of statement
23 I would think would be quite limited. So I think that
24 was the point I was making earlier on; we can ask but we
25 cannot sit down and force a pen into somebody's hand and

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1 make them write down something.

2 Q. Thank you. Then finally you talked about

3 Safer Communities earlier on this afternoon. Is that

4 a particular team in Police Scotland?

5 A. Yes. It's based at the Scottish Crime Campus, National

6 Safer Communities. Or it was, anyway. I don't know, in

7 the last number of years it might have changed. It

8 might have a different name. But that's where they're

9 based and there is a -- or there was an equality and

10 diversity section within the broader National

11 Safer Communities.

12 MS GRAHAME: Thank you. Will you give me one moment,

13 please.

14 Thank you very much. That concludes my questions

15 for this witness.

16 LORD BRACADALE: Thank you. Are there any Rule 9

17 applications?

18 Well, thank you very much Ms Boal for coming to give

19 evidence to the Inquiry. I am very grateful to you for

20 taking the time and you covered a wide range of subjects

21 so that's very helpful. The Inquiry is about to adjourn

22 and then you will be free to go.

23 A. Thank you very much.

24 LORD BRACADALE: We will adjourn now until 12 September.

25 (3.41 pm)

Transcript of the Sheku Bayoh Inquiry

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