

Transcript of the Sheku Bayoh Inquiry

Monday, 4 December 2023

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(10.00 am)

LORD BRACADALE: Good morning, Sergeant Miller. Will you take the oath please.

SERGEANT GORDON MILLER (sworn)

Ms Thomson.

Questions by MS THOMSON

MS THOMSON: Good morning, sergeant. What is your full name please?

A. It's Iain Gordon Miller but I'm known as Gordon.

Q. How old are you, sergeant?

A. I'm 54.

Q. And are you a police sergeant with Police Scotland?

A. That's correct, yes.

Q. You're currently in the Corporate Services Division Volunteer Coordination Unit at Tulliallan?

A. That's correct, yes.

Q. Where you are the national lead for Police Scotland youth volunteers and special constables?

A. That's correct, yeah the unit is, yes.

Q. How many years of police service do you have?

A. 24.

Q. Sergeant, before we begin, could you perhaps open up the blue folder in front of you.

A. Yes.

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1 Q. There are some documents in there that you might find it
2 helpful to refer to during your evidence. Let's look
3 firstly at PIRC 00151, which is an operational statement
4 prepared by you on 3 May 2015. Is that right? Do you
5 see that in that folder?

6 A. Yes, I do, yes.

7 Q. Now, although it has got a PIRC reference number, am
8 I right to understand this was an operational police
9 statement and not a statement that you gave to the PIRC?

10 A. That's correct, yes.

11 Q. So it's a self-penned statement, as it were?

12 A. That's right, yes.

13 Q. And when you prepared that statement on 3 May 2015 were
14 you doing your best to give a truthful and accurate
15 account of the events of that day?

16 A. I was, yes.

17 Q. Were you asked by the PIRC to give them a statement?

18 A. Yes, I was at some stage, a long time later, when I was
19 in Perth, I was contacted and asked to provide
20 a statement, which I did.

21 Q. And that was to the PIRC?

22 A. No, sorry, I beg your pardon, that was Op Tarn.

23 Q. That was Operation Tarn?

24 A. Yes, I wasn't asked to give one to PIRC, I beg your
25 pardon.

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1 Q. All right. I will ask you about that in a moment. We
2 certainly don't have a statement that you provided to
3 the PIRC. I just wanted to be clear as to whether you
4 had ever been asked to give a statement to the PIRC.

5 A. No, I wasn't, no.

6 Q. What about the Crown? Did the Crown ever ask to
7 precognosce you?

8 A. No.

9 Q. And you mention being asked to provide a statement to
10 Operation Tarn, that's Police Scotland?

11 A. Yes.

12 Q. When was that?

13 A. It would be a couple of years ago.

14 Q. You said it was when you were in Perth?

15 A. When I was working in Perth, yeah.

16 Q. And did you give a statement to Operation Tarn?

17 A. I provided a statement and there was also a document
18 that went with it that was signed off by your inspector,
19 so that was provided with them as well.

20 Q. I don't think I have seen that. What was the purpose of
21 you giving a statement to Operation Tarn?

22 A. I think it was just a further in-depth statement from --
23 an operational one, as far as I can recall anyway.

24 Q. You should also have in the folder in front of you the
25 statement that you gave to a member of the Inquiry team

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1 and that was on 6 March of this year. We can maybe
2 bring this one up on the screen please. It's
3 SBPI 00315.

4 A. Yes, that's correct, yes.

5 Q. Do we see this is your statement, noted on 6 March 2023,
6 and if we scroll to the very bottom of the document
7 please do we see that it was signed by you on
8 4 May 2023?

9 A. Yes, that will be correct, yes.

10 Q. We can see that your signature has been redacted on the
11 copy that's on display --

12 A. Yes, yes.

13 Q. -- but I think you should have a signed copy in your
14 folder.

15 A. Yes.

16 Q. And every page should have been signed.

17 A. Every page, yes.

18 Q. If we can look at paragraph 130, the very final
19 paragraph, it states:

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

24 So when you gave your statement you understood that
25 your statement would form part of your evidence and

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1 would be published in due course?

2 A. Yes.

3 Q. And you said, "I believe the facts stated ... are true".

4 Did you do your best to be truthful and accurate when

5 you gave this statement?

6 A. Yes.

7 Q. Thank you. Also within your folder -- and we don't need

8 to put this on the screen at the moment -- is the scene

9 entry log for the home address of a Zahid Saeed and

10 that's got a reference number PS18504. There should be

11 a copy of that in front of you as well.

12 A. Yes.

13 Q. So you have there your Inquiry statement, your

14 operational police statement and a scene entry log and

15 if at any time you would find it helpful to refer to

16 these documents, please do so, and if it there's

17 anything you would like me to put up on the screen then

18 I can do that for you.

19 A. Okay, thank you.

20 Q. I want to begin by asking you about your role

21 in May 2015. You explain in your statement that you

22 joined the police in 1999.

23 A. Yes, that's correct, yes.

24 Q. And that as of May 2015 you were a detective constable

25 in Reactive CID based at Levenmouth Police Station.

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1 A. Yes.

2 Q. I wonder if we can look at paragraphs 10 and 11 of your
3 Inquiry statement where you explain your role and
4 responsibilities:

5 "Our responsibilities, along with the crimes that we
6 would have allocated to ourselves anyway and ongoing
7 inquiries with that, we'd be looking at anything that
8 the CID would be involved in. That would be high-level
9 thefts, house break-ins, serious assaults, anything like
10 that; we would be looking into drug related stuff as
11 well.

12 "Any of these crimes that were reported over the
13 previous day, the way the Crimefile system worked at
14 that time, there'd be a crime bulletin would be
15 published the next morning and it would just have the
16 brief details of the crime number, the MO for the crime,
17 and that would be it. We would go in the morning and
18 would look at all the various crimes, read them, make
19 sure that they were getting dealt with appropriately.
20 All crimes, any ones that fell into our remit we'd be
21 taking on, but, as far as crime management, we'd be
22 looking at all crimes just to make sure that they're
23 taking the right lines of inquiries with everything."

24 So you explain in those paragraphs essentially what
25 your role in CID at that time involved and you conclude

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1 by saying:

2 "... we'd be looking at all crimes just to make sure
3 that they're taking the right lines of inquiries with
4 everything."

5 Can you tell us a little bit more about that?

6 A. Excuse me. Yes, of course. So every day the previous
7 day's crimes would be published, if you like, so we
8 would go in, we would look at them and we would be
9 looking at every crime just to make sure that the
10 appropriate enquiries were getting carried out, even if
11 it didn't sort of fall into the remit of the CID, we
12 would look at every single crime.

13 Q. Sorry, what do you mean by "appropriate enquiries"; what
14 sort of things would you be checking?

15 A. Well, just if there was suspects, making sure that they
16 were aware of other crimes that they are maybe sought
17 for, making contact -- we would put an update on the
18 Crimefile system for the reporting officer, if there
19 were serious crimes we would then look to take them on.
20 Just anything like that. Any enquiries that needed --
21 that -- the actual Crimefile system at that time, the
22 reporting officer, or the officer -- excuse me -- that
23 would be put their "speaks to" on to say exactly what
24 they were doing, so simple things like if they had
25 carried out door-to-door, if they had checked for CCTV

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1 enquiries, have they done appropriate researching of,
2 you know, anything to do with it.

3 Q. So you were acting as a check and a balance effectively,
4 making sure that everything is done that needs to be
5 done --

6 A. Yes, yes.

7 Q. -- in the crimes that have been reported over the
8 previous 24 hours?

9 A. Yes. The undetected ones, I should say. The detected
10 crimes have obviously passed the post, if you like, but
11 it was the undetected ones that we were predominantly
12 interested in.

13 Q. What do you mean by undetected?

14 A. There hadn't been somebody cautioned and charged for it.
15 There hadn't been somebody identified as being
16 responsible for that crime.

17 Q. So crimes that have been committed and a report has been
18 made but you don't have a suspect?

19 A. Yes, correct, yes.

20 Q. Let's move on to 3 May 2015 and you explain in your
21 statement that you worked a 7 am to 4 pm shift, that you
22 began your day at Cupar Police Station and printed the
23 day's crime bulletin and went through it.

24 A. Yes.

25 Q. If we can scroll down -- I'm going to read this short

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1 slightly because I don't think any of this is more than
2 background but you explain at paragraphs 16 and 17
3 please that while you were marking the bulletin you
4 heard a radio message about an incident in Kirkcaldy.
5 The Kirkcaldy units were all tied up and they were
6 looking for assistance. You informed the Duty Sergeant
7 an incident had happened and they were looking for
8 resources. So that's what you recall.

9 You then explain at paragraph 19 that you did what
10 needed to be done with the crime bulletin and drove up
11 to Levenmouth at the back of 9. DS Dursley was the DS
12 on the shift and a DC Petrie was on the shift too. And
13 at paragraph 20 you have explained that DS Dursley had
14 gone to Kirkcaldy to assist and only DC Petrie was in
15 the office. He had phoned through to see if you were
16 needed and you were told to stay where you were, they
17 had sufficient resources at that time.

18 So that's all by way of background, sergeant, but if
19 we can perhaps look in more detail at paragraph 21, so
20 you explain that you had heard certain information over
21 the radio but you explain at 21 that:

22 "We had no idea of any details of the incident or
23 anything like that. We just knew that there had been an
24 incident in Kirkcaldy, and we knew that a Black male had
25 been engaged and had subsequently died, been pronounced

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1 life extinct, in the Victoria Hospital, Kirkcaldy.
2 I think at that time they were trying to identify who
3 the male was. We knew that it was a critical incident.
4 We didn't have any specific briefing. I know when we
5 were in the house, DC Petrie phoned DS Dursley a couple
6 of times and just told him what was happening, so he'd
7 been given advice at that time, which he would have
8 passed on to myself, but he was very much in
9 conversation with DS Dursley who was involved in the
10 incident."

11 And if we can also look, before I ask you any more
12 questions, at paragraph 23:

13 "I remember there was a radio message come across.
14 I've no idea who it was. I presume it was members of
15 the Major Investigation Team that would have been in to
16 investigate the incident, and they had shouted up over
17 the Police radio on the Levenmouth channel saying that
18 they had taken an address. I can't remember the number
19 of it ... On the instructions of the ... (SIO), it was
20 to be seized as a secondary locus. I also remember them
21 saying that the house was empty, and that was it. I was
22 aware that this had happened. They'd come and they'd
23 taken away Mrs Rashid's brother. I can't remember his
24 name. They'd taken him away, I believe, and they had
25 shouted up to secure the building and the house was

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1 empty. We had no involvement at that time. We heard
2 the control directing a police unit to go and carry that
3 out. Never thought any more about it."

4 So you explain between paragraphs 21 and 23 that you
5 had no idea of any of the details of the incident beyond
6 the fact that a black male had been engaged and had died
7 and it had been declared a critical incident.

8 A. Yes.

9 Q. And at paragraph 23 you explain that the MIT, the Major
10 Investigations Team, I think that is --

11 A. Yes.

12 Q. -- had shouted up that they had taken an address and:

13 "On the instructions of the ... (SIO) it was to be
14 seized as a secondary locus. ... they had shouted up to
15 secure the building and the house was empty."

16 And you conclude that paragraph by saying that you:

17 "... heard control directing a police unit to go and
18 carry that out. [And you] Never thought any more about
19 it."

20 So you weren't required at that point in time?

21 A. No, the only reason we paid some attention to it is
22 because it was within our area, so it was within the
23 Levenmouth/Methil area, so that had come over the radio
24 channel that this was happening. So that's all we knew
25 at that time.

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1 Q. So this is happening in the background, you can hear the
2 radio messages --

3 A. Yes.

4 Q. -- but you have no direct involvement at this stage?

5 A. That's correct, yes.

6 Q. We have heard evidence that a DS Dursley radioed and
7 relayed instructions from the duty SIO that two officers
8 were to secure the locus and that he didn't think that
9 anyone was at that address. That would fit, I think,
10 with what you heard coming over the radio.

11 You refer to the address as a secondary locus, or
12 a secondary crime scene. What do you mean by that?

13 A. Just that it's got a connection with the incident but
14 not primarily -- the incident hasn't happened there, but
15 there's obviously a connection with the incident.

16 Q. Okay. If we can look again at 24 please, where you
17 explain that you:

18 "... had no idea of the direct connection or
19 anything like that at the time. We just knew that it
20 was secondary and it was on the instructions from the
21 SIO. A decision had been made by the SIO that it was
22 connected and that it was to be secured."

23 So, although you understood that this property was
24 a secondary crime scene, you explain at 24 that you
25 didn't know what the connection was?

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1 A. That's correct, yes.

2 Q. Do you recall who was the SIO that morning?

3 A. No. I had no idea at all. We had no direct involvement
4 because I started up in Cupar and DC Petrie was a later
5 start, so when the initial incident happened everybody
6 had gone through, so we had no involvement at all at
7 that stage.

8 Q. Now, briefly in paragraph 25 you explain that securing
9 and seizing a property mean the same thing. Can these
10 terms be used interchangeably?

11 A. Yes, that's my understanding.

12 Q. I want to ask you some questions now about the decision
13 to go to this address. We will refer to it as the
14 address of Zahid Saeed. If we can look at paragraph 26
15 please:

16 "About ten or fifteen minutes after the radio
17 message about seizing the property, there was a call
18 from one of the officers that had attended to say that
19 the house wasn't empty. There was people within it, and
20 they weren't very happy about being asked to leave the
21 house. It was at this stage I said to DC Petrie, 'Look,
22 we'll have to go and give them a hand assistance-wise',
23 because the Response are there, they were told the house
24 was empty and we've got a diabetic grandmother who
25 doesn't speak English, Mrs Rashid who had two young

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1 children and the youngest just out of hospital and
2 [another] who is paraplegic. Saying 'the house was
3 empty' couldn't be a worse description of the house."

4 I want to ask you a few questions about that
5 paragraph?

6 A. Of course.

7 Q. You mentioned there being a call from one of the
8 officers who had attended to say the house wasn't empty.
9 Now, we have heard evidence from a PC Fraser that he and
10 a Constable Aitken were the response team who had gone
11 to the house in the first instance and PC Fraser had
12 indeed radioed to say that the house was occupied. And
13 in his evidence the Airwave message was put to him. It
14 was:

15 "431 from 43 Bravo. The address is currently
16 occupied. There's a female and her son, her brother and
17 her mother, all here at this time. Details in as to who
18 is within and pass them back. Over."

19 And the Duty Sergeant responded:

20 "Yeah, that's all received. Just stand by and
21 I will get the DS to get directly in touch with you."

22 I'm wondering if that might be the message that you
23 heard when you said that there was a call from the
24 response officer at the house to say --

25 A. Yes.

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1 Q. -- that there was someone there?

2 A. I believe it was, yes.

3 Q. Now, in your statement at paragraph 26 you mention that
4 the occupants weren't happy about being asked to leave.
5 You mentioned a diabetic grandmother who didn't speak
6 English, two young children, one just out of hospital,
7 and someone who was paraplegic. Just to be clear, when
8 did you receive that information about the occupants?

9 A. It wasn't until we were there. We didn't know that. We
10 just knew that -- at that stage we just knew that there
11 were people within the address and that they were not
12 wanting to leave.

13 Q. Can we move on to paragraph 27 please:

14 "My recollection of going to [the address] was it
15 was our decision to go to assist because we knew that
16 there was very little resources because everybody in
17 Kirkcaldy or back filling across the Division. Because
18 of the timings of when it happened, the whole shift had
19 been involved. Everyone was pulled in. Units would be,
20 presumably, pulled in to do business-as-usual Response
21 work at Kirkcaldy. We knew that the resources were very
22 light, and when that message was put out that there was
23 people within the house, we knew there wasn't a lot, so
24 we more-or-less volunteered ourselves to go along and
25 try and assist Response. It wasn't really to take over

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1 or anything like that. It was just to provide
2 assistance, but when we got there they were looking for
3 us to take the lead. I'm pretty sure DC Petrie would
4 have phoned DC Dursley to tell him that we're en route.
5 He certainly phoned him from within a couple of times
6 just to tell them what was happening and keep him aware
7 because obviously they, for some bizarre reason, thought
8 the property was empty."

9 Now, I want to ask some questions about what you say
10 in this paragraph now. You say that you volunteered
11 yourselves to assist; is that right, you weren't asked
12 to go to this address, you offered to help?

13 A. Yes, that's how I recall it. We were aware of the
14 extent of resources, so we knew there wasn't a lot of
15 resources available, so we went along to assist, yes.

16 Q. Again, when Constable Fraser gave his evidence, radio
17 messages were put to him in his evidence and there was
18 one from the Duty Sergeant to Constable Fraser:

19 "The CID are going to nip down. Basically it's
20 a case of obtaining details from people within and we're
21 going to try and get them elsewhere. But, as I say, CID
22 are going to come down with a car and give you a hand
23 with that."

24 And Constable Fraser replied to that message:

25 "Yes, yes, we're just in the process of noting

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1 particulars."

2 So that fits with what you explained, that you had
3 offered your services and it would seem that behind the
4 scenes the response team were being advised that CID
5 were going to come down and give them a hand.

6 So it seems that uniformed officers were made aware
7 that you were coming to give them a hand, although you
8 explain in paragraph 27 that it wasn't to take over, it
9 was just to provide assistance. Can you help us to
10 understand what assistance you anticipated giving when
11 you got there?

12 A. Yes, of course. It's just to try and to explain to the
13 people within the household the -- you know, what was
14 happening. Sometimes -- obviously uniformed officers
15 are -- sometimes when we're in plain clothes it comes
16 better from us because they don't see the sort of police
17 side of things. We went along to try and reassure them
18 and try and explain the reasoning of why we needed to
19 take the house.

20 Q. If we can look at paragraph 28, about halfway down:

21 "All we knew, as far as I can recall, was that there
22 were some people within the property and they weren't
23 particularly happy about having to leave, so we were
24 just going along to try and explain that to them."

25 And you said a moment or so ago in your evidence

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1 that you were going to explain things to the occupants
2 and also try to reassure them. What was it you were
3 going to explain?

4 A. Well, just really that there had been a serious incident
5 and that through the investigation of that, that the
6 decision had been made that they needed to secure that
7 household for -- in order to protect sort of evidence.
8 We didn't know at that time exactly what they were
9 looking for or that -- it was really just to provide
10 that sort of communication with the family members to
11 see if we could persuade and ask them to leave, was
12 really what it was about.

13 Q. Okay. You said you were going to persuade them. What
14 was it that you needed to persuade them about?

15 A. Well, they didn't want to leave the address, that was
16 quite clear. They were quite annoyed actually when we
17 got there so it was difficult from the word go to try
18 and get them on side to ask them to leave. But again,
19 one of the greatest attributes you probably have as
20 an officer is communication skills, so we were hoping
21 that we were going to be able to reason with them and
22 try and see what we could do to get them to go.

23 Q. Okay. You said it was difficult to get them on side.
24 Why was it important to get these occupants on side?

25 A. They were quite annoyed and upset at having to leave

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1 their address, which I don't fall out with at all.

2 Yeah, so -- I mean we were there to try and explain the
3 side of the police, the need to -- you know, to take the
4 address and that the forensic integrity of the address
5 would have to be protected.

6 Q. You said a few minutes ago in your evidence that as well
7 as going to explain these things to the occupants, you
8 were also going to reassure them. What were you going
9 to reassure them about?

10 A. Just the fact that, you know, we're there to do a job,
11 we were going to try and make the transition as easy as
12 possible because ultimately we're in somebody's house on
13 a Sunday lunchtime asking them to leave, so we have come
14 into their sort of private space, if you like, and --
15 but we just wanted to reassure them that we were
16 there -- there was a need, you know, to do that and
17 that's why we were there to do that.

18 Q. Okay. And why was this a job for CID rather than for
19 the uniformed response officers?

20 A. I don't think it was particularly a job for the CID,
21 other than we had gone along to try and explain probably
22 better -- we're probably more involved in more serious
23 crimes, so we have probably got a better understanding
24 of crime scenes and things like that. It wasn't
25 particularly a CID job per se, it was just that myself

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1 and DC Petrie were available, they were looking for
2 assistance so we went along to assist.

3 Q. So, as far as you were concerned, you were going along
4 to assist, or lend a hand, and you have explained to us
5 this morning that this was about explaining and
6 persuading and reassuring.

7 A. Yes.

8 Q. You explain in your statement that when you actually got
9 there you discovered that Response were looking for you
10 to take the lead. What did you mean by that?

11 A. Just that they had sort of backed off from it and had
12 handed the situation over to ourselves type thing, so
13 they had basically asked us to, you know, speak to the
14 family and see what we could do to resolve the
15 situation.

16 Q. Let me ask you some questions then about what happened
17 when you and your colleague arrived at Zahid Saeed's
18 home address. You explain in your statement that there
19 were officers outside and that you were directed to the
20 back door, that's at paragraph 29 of your statement, and
21 at paragraph 32 you clarify that there were two or three
22 officers there.

23 Let's perhaps look, at this juncture, at the scene
24 entry log, which is PS18504. If we could scroll through
25 the document please. If you go to the next page.

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1 Sorry, if we can just get our bearings by looking at
2 this page. So it's a scene entry log. It relates to
3 the Saeed home address and the log was commenced at 1.30
4 on 3 May 2015.

5 If we can perhaps scroll to what I think is page 9
6 of the PDF. If we can take a moment just to make
7 ourselves familiar with the way that information is
8 recorded in these logs, we see a number of columns with
9 headings along the top:

10 "Time/date in and loggist details. Name and
11 designation. Reason for entry. Cross-contamination.
12 Protective clothing worn. Signature. Time/date out and
13 loggist details."

14 And do we see here that the log has been commenced
15 at 1.30 in the afternoon by PC Fraser?

16 A. Yes, that's correct, yes.

17 Q. Who has given reason for entry:

18 "Secure locus/locus protect".

19 The signature has been redacted but it would appear
20 that he has been at the property on locus protection
21 until 3 o'clock in the afternoon.

22 A. Yes.

23 Q. Immediately beneath that entry do we see that

24 Constable Fraser was accompanied by Constable Aitken.

25 They appear to have arrived at the same time, presumably

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1 together, with the same purpose:

2 "Secure locus/locus protection."

3 And do we see that Constable Aitken also appears to

4 have moved away from the locus at 3 o'clock in the

5 afternoon?

6 A. Yes.

7 Q. Do we also see that you and DC Petrie arrived about

8 ten minutes later, 13.40 hours?

9 A. Yes, that's correct, yes.

10 Q. And if we look at the bottom entry please,

11 Gordon Miller; is that your handwriting?

12 A. It is, yes. It's not very good but it's my handwriting,

13 yes.

14 Q. And you have used little dash marks that I think are

15 intended to indicate that the information in the box

16 above applies equally to your entries; is that right?

17 A. That's right, yes.

18 Q. So instead of putting in the date and the time you have

19 put little dash marks, but should we understand that you

20 arrived with Constable Petrie at 13.40 on 3/5/2015?

21 A. Yes, that's correct.

22 Q. And again, under the column, "Reason for entry," you

23 have put little dash marks immediately below

24 Constable Petrie's entry, which was to "Secure locus".

25 Was that also your stated purpose in --

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1 A. Yes.

2 Q. -- going to the property?

3 We see that your signature has been redacted and I'm
4 afraid that the time/date out has also been completely
5 redacted so we don't appear to have a record on this
6 version of the scene entry log as to when you left,
7 although it appears that Detective Constable Petrie left
8 at 14.45 hours?

9 A. Yes, we would have left at the same time.

10 Q. You would have left at the same time, okay.

11 Can you confirm for me that at the point that you
12 arrived, you and DC Petrie were the only plain-clothed
13 officers present?

14 A. That's correct, yes.

15 Q. And in fact the only other officers present at all were
16 Constables Fraser and Aitken?

17 A. As far as I'm aware. I can't recall entirely, but
18 certainly myself and DC Petrie were the only plain
19 clothes officers there.

20 Q. And if there had been any other uniformed officers
21 present, aside from Constable Fraser and
22 Constable Aitken, would you have expected that to be
23 recorded in the scene entry log?

24 A. The -- only if it they were going inside. If they were
25 outside potentially they wouldn't have recorded in there

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1 because it's who's entering the scene obviously.

2 Q. And what is the boundary of the scene; is it the front
3 path, is it the front door?

4 A. Every scene is different, but in that case it was the
5 actual house and the car, which we found out later on.

6 Q. So if, for example, there had been other officers
7 standing on the roadway outside, they wouldn't
8 necessarily have recorded their details in the scene
9 entry log?

10 A. That's correct. They would be outside the perimeter.

11 Q. But to the best of your recollection, were there any
12 other uniformed officers there aside from
13 Constable Fraser and Constable Aitken?

14 A. As far as I'm aware that's all that was there, yes.

15 Q. Can we return to your statement please, your Inquiry
16 statement, and can we look at paragraph 30:

17 "I am asked what was the extent of my knowledge
18 about the property before attending, and whether the
19 uniformed officers who initially attended had
20 communicated any information to me. We spoke to the
21 officers outside just before we went in. The
22 conversation that we would have had would just be
23 several seconds. It would be half a minute or something
24 like that. I think they told us at that time that there
25 was a disabled man, the kids were there, and there was

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1 an older lady as well. I don't think they had the full
2 information at that time, but it was far from being
3 empty, and they also told us that they were not
4 particularly happy as well. They weren't aggressive or
5 anything like that. They were annoyed, upset annoyed
6 rather than upset emotional, which is understandable."

7 So you record here in your statement that on arrival
8 the uniformed officers told you that there was
9 a disabled man and kids and an older lady and that they
10 weren't particularly happy, so that's information that
11 you got when you arrived at this address from the
12 uniformed officers who were already there?

13 A. Yes, that's correct.

14 Q. What, if anything, were you told about the nature of the
15 man's disability?

16 A. I think we were just told at that stage that he was in
17 a chair, but it was more the fact that everybody was
18 annoyed and unwilling to leave the address, so ...

19 Q. When you say a chair, do you mean a wheelchair?

20 A. Yes, sorry, yes.

21 Q. You say it was more about the fact that everyone was
22 annoyed and unwilling to leave. Should we understand
23 then that the uniformed officers had already attempted
24 to encourage the occupants to leave before you arrived?

25 A. Yes, yeah. I think they had some of their details, if

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1 I recall correctly.

2 Q. But certainly the information that you were provided was
3 that they were annoyed and not happy about the request
4 that they leave?

5 A. That's correct, yes.

6 Q. Let's look at paragraph 32 please:

7 "I am asked if I recall how many officers were
8 already there when I arrived at [the address]. There
9 was either two or three. I think maybe the front door
10 was locked and they were round the back door. I can't
11 remember why. We certainly went in the back door.
12 I seem to think that there was somebody inside because
13 when we chapped the door, I think it was an officer that
14 let us in rather than Mrs Rashid, but it's difficult to
15 say. Normally, you'd have somebody at the front,
16 somebody at the back, and if occupants were in, you'd
17 definitely have somebody inside just to try and control
18 that as best you could. That's as best as I can recall
19 that bit, unfortunately."

20 So I want to ask you some questions about what you
21 say here. We have looked at the scene entry log and we
22 know that the uniformed officers who were at the address
23 were Constable Fraser and Constable Aitken. Do you
24 recall who it was that you spoke to?

25 A. No, I don't. I didn't know these officers. DC Petrie

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1 knew them, but I didn't know them.

2 Q. Okay. We know that Constable Fraser was male officer
3 and we have heard that Constable Aitken was a female
4 officer. Does that help?

5 A. It does, yes. It was a male officer that was at the
6 back door.

7 Q. You say in paragraph 32:

8 "... I think it was an officer that let us in rather
9 than Mrs Rashid, but it's difficult to say."

10 And if we can hold that thought and quickly jump to
11 paragraph 35 please, you say here:

12 "We chapped the door, and I can't remember if it was
13 Mrs Rashid or there was an officer that initially let us
14 in from the inside, but we were invited in, anyway, and
15 it was Mrs Rashid that spoke to us."

16 So in your statement in both paragraphs 32 and 35
17 you seem unsure as to who let you into the house,
18 whether it was an officer or whether it was Mrs Rashid.
19 Now, you have had time to reflect and I wonder what's
20 your best recollection today as to who let you into the
21 house?

22 A. I don't recall exactly. I've got a memory of us being
23 at the back door, speaking to an officer. Whether they
24 have opened the door and introduced us, or Mrs Rashid
25 opened the door, I don't honestly recall, but certainly

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- 1 that's how I remember it anyway.
- 2 Q. If we can look at paragraph 34 please. You say here
3 that you were in the kitchen area and there was another
4 officer in with you as well. Was that one of the
5 officers that you have already referred to, one who was
6 present when you arrived?
- 7 A. Yes. That's how I recall it. There was either --
8 either they have gone in and introduced us -- excuse
9 me -- or they have been in and let us in.
- 10 Q. And do you recall whether that was a male officer or
11 a female officer?
- 12 A. It was a male officer as far as I recall.
- 13 Q. You said earlier in your evidence that if anyone went
14 into the house you would expect that to be recorded in
15 the scene entry log?
- 16 A. Yes.
- 17 Q. And the only uniformed officers recorded as being
18 present at that time are Constable Fraser and
19 Constable Aitken and Constable Aitken we know was
20 a female officer, so would it be reasonable perhaps to
21 assume that it was Constable Fraser who was in the house
22 with you?
- 23 A. Yes, that's more than reasonable, yes.
- 24 Q. I want to ask you some questions about Constable Fraser.
25 He has already given evidence and he said that he

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1 considered that his role was to silently vouch for the
2 CID officers. He said that he was there to show his
3 presence:

4 "... to reassure that these two in business dress
5 are police as well. Although they had warrant cards and
6 whatnot, it's often easier and quicker to display myself
7 or a uniformed officer with them."

8 And he said that he didn't carry out any purpose
9 other than to silently vouch for the CID, and that his
10 presence would show that you were with him.

11 I wondered if I could invite your comment on that.

12 A. I don't know what to say. I don't know how somebody
13 would silently vouch for us. I mean, if we were --
14 first thing we would do if we were going in a property,
15 we all carry our warrant cards obviously, we would
16 identify ourselves and give our names straight off the
17 bat and introduce ourselves so the person that we're
18 speaking to would know exactly who we were. I do know
19 that he was there, so if he's feeling that he's vouching
20 for us, that's fair enough, but it's not something
21 I really think would have been necessary.

22 Q. So you weren't conscious at the time that he was trying,
23 by his uniformed presence, to make it clear to the
24 occupiers that you and DC Petrie, although in plain
25 clothes, were also police officers?

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1 A. I wasn't aware of that to be honest.

2 Q. And is this something familiar to you, what I have
3 described? Have you ever been in a situation before
4 where uniformed officers have attended an address with
5 you to offer some sort of reassurance by virtue of the
6 fact that they are in uniform?

7 A. No, I've never had that. I've been asked for -- whilst
8 I've been in uniform duties to show my warrant card
9 myself to prove I'm a police officer, but on the other
10 side of things I've never had that. As I say, we
11 routinely carry our warrant cards and it's there to
12 display so ...

13 Q. Okay, so it wouldn't be routine for uniformed officers
14 to vouch for plain clothes officers?

15 A. No, not that I'm aware of anyway, no.

16 Q. Constable Fraser also gave evidence that the occupants
17 were perhaps in a sitting room for a living room within
18 the house. He said there was a disabled male in the far
19 corner, possibly a lady standing, and the rest were
20 sitting, possibly on couches, and he was asked:

21 "Question: Thinking of that answer, if there were
22 couches do you think maybe the room might have been
23 a living room rather than a kitchen?"

24 And he said:

25 "Answer: Could be."

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1 Do you, for your part, have any recollection as to
2 where you were? You say in paragraph 34:

3 "We were in the kitchen area."

4 Do you recall whether you were in the kitchen at all
5 times or were you at any time in the living room?

6 A. The way I recall the -- what it was, it was a sort of --
7 the kitchen had a sort of dining area, I'm sure there
8 was a dining table there as well, and then further on
9 was the living room. I don't -- I don't know if it was
10 separate or if it was sort of an arch -- a small archway
11 through to it type thing. I don't honestly recall, but
12 it seemed to be combined, if you like. It was all one
13 sort of living space, separated obviously by an archway
14 of some kind.

15 Q. And you were in that living space?

16 A. Yes. Predominantly I was standing -- yes, in-between,
17 if you like.

18 Q. In the archway?

19 A. Yes, just at the side. There was a door or a ramp that
20 went off to the left-hand side where Abid's bedroom and
21 that was because he was using his chair to go down there
22 and then, as I say, that was to the left and then
23 directly behind me would have been the living area, with
24 the kitchen in front and the back door at the side, at
25 the back of the kitchen.

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1 Q. Okay. Can we look at paragraph 35 please. We looked at
2 the beginning of this already:

3 "We chapped the door and I can't remember if it was
4 Mrs Rashid or there was an officer that initially let us
5 in from inside, but we were invited in, anyway, and it
6 was Mrs Rashid that spoke to us. Immediately she
7 started asking us questions, what was going on, all the
8 rest of it. We tried to explain what was happening and
9 the need to take it. She was wondering why we were
10 allowed in without a warrant so we tried to explain that
11 to her, that yes, sometimes you do need warrants but on
12 this occasion because it was a serious incident that
13 happened at the time the property had been seized we've
14 got to protect the forensic integrity of it."

15 And at 36:

16 "I'm asked if it is my recollection that we were
17 invited into the property. It is."

18 I want to ask you some questions about these
19 paragraphs, sergeant. So you say that you were invited
20 in, although you don't now recall whether it was
21 an officer or Mrs Rashid on who came to the door. Can
22 you explain to us what you mean by "invited in"?

23 A. Just -- well, as I say, we entered the property.
24 Whether Mrs Rashid opened the door for us or whether the
25 officer chapped the door and we went in to speak to her,

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1 so -- but we weren't told to get out or anything like
2 that. We just entered the property to speak to her and
3 immediately when we got in she was clearly annoyed at
4 having been asked to leave her property.

5 Q. Okay. So if you were invited in by another officer,
6 what would be your authority for going into the house?

7 A. We were just -- through common law powers we were going
8 in. We were following an instruction from the SIO to
9 seize the property.

10 Q. If you had been invited in by Mrs Rashid what would have
11 been your authority for going into the house?

12 A. If we were invited in by her?

13 Q. Mm-hm.

14 A. Just we were invited in to speak to her.

15 Q. You say at paragraph 35:

16 "She was wondering why we were allowed in without
17 a warrant."

18 I'm wondering is that a question she would have
19 asked you if she had invited you in?

20 A. Her question was more about us seizing the property, why
21 could we take their property without a warrant, rather
22 than -- that's what I'm meaning there.

23 Q. Okay. These are your words, this is your statement.

24 A. Mm-hm.

25 Q. And you have told us that you did your best to be

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1 truthful and accurate when you gave the statement and
2 you have signed every page and the words that you have
3 used here were:

4 "She was wondering why we were allowed in without
5 a warrant."

6 A. Yes. Well, as I say, the conversation that we had with
7 her was along the lines of why we were taking the
8 property. She said we needed a warrant. That's what
9 I was meaning there.

10 Q. Okay, did she ask you why you were allowed in without
11 a warrant?

12 A. Not that I recall.

13 Q. You explain in your statement:

14 "... we tried to explain to her that yes, sometimes
15 you do need warrants but on this occasion because it was
16 a serious incident that happened at that time the
17 property had been seized we've got to protect the
18 forensic integrity of it."

19 What was the serious incident that had happened?

20 A. The -- obviously the incident that happened in Kirkcaldy
21 with Sheku. At that time we were aware that Saeed had
22 left prior to going down the Hayfield Road and had come
23 back to the address in Methil.

24 Q. Did you have that information at that time?

25 A. I don't know at that exact time but certainly during the

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1 time we were in the property we would have had that
2 information, yes.

3 Q. So what was the connection then between the incident
4 involving Sheku Bayoh and Zahid Saeed's house?

5 A. The connection was -- certainly I don't know at that
6 exact time if we knew that, but the connection was that
7 they had been taking drugs and we weren't aware whether
8 the drugs were within that house or not.

9 Q. Is that information that you had at the time?

10 A. Sorry?

11 Q. Was that information that you had at the time?

12 A. I don't know. We certainly -- DC Petrie had contacted
13 our supervisor, DS Dursley at that time, so he would
14 have been given the information whilst we were there
15 when we fed back, so I honestly don't know at that time
16 if we had that information or not.

17 Q. Going back to paragraph 35 of your statement:

18 "Mrs Rashid was wondering why we were allowed in
19 without a warrant."

20 What powers does a police officer have to enter
21 someone's house without a warrant?

22 A. They have powers under common law, but generally you
23 would get a warrant to enter a property.

24 Q. I take it there wasn't a warrant on this occasion?

25 A. Not at that stage, no.

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- 1 Q. Okay. And what power does a police officer have to
2 seize a house for the purposes of a search without
3 a warrant?
- 4 A. Again, under common law powers, if it's an integral part
5 of the investigation, which the SIO had deemed it was,
6 they had seized that property to presumably search it.
- 7 Q. So you say there are common law powers that would allow
8 an officer to enter a house without a warrant and would
9 allow an officer to seize a house for the purposes of
10 a search without a warrant; is that -- did I understand
11 your position correctly?
- 12 A. Yes.
- 13 Q. Okay. And you say that those circumstances were met
14 here because the SIO had said the property was an
15 integral part of the investigation; is that right?
- 16 A. Yes, they had said they wanted it seized.
- 17 Q. Did you know why the SIO wanted it seized?
- 18 A. No, I don't think so. Not at that stage.
- 19 Q. So at that stage then you didn't know what the
20 connection was between the death of Sheku Bayoh --
- 21 A. No.
- 22 Q. -- and this property?
- 23 A. Initially when we entered the property we didn't -- or
24 certainly I didn't know.
- 25 Q. Okay. But it's your understanding that where an SIO

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1 says that an address is an integral part of an enquiry,
2 then that gives you the power at common law to enter an
3 address and seize that address without a warrant?

4 A. Yeah, we were basically following a lawful order from
5 the SIO.

6 Q. Can we have a look at paragraph 99 please:

7 "I am asked what was my understanding when I went to
8 Zahid Saeed's address of what our authority was for
9 seizing the property. My understanding was that the
10 decision had been made by the SIO that it was to be
11 seized. That message was broadcast but in an ideal
12 world we would have occupants allowing us to take the
13 property. I think because it had gotten to the stage
14 where they weren't wanting to leave, that they had to
15 seize that potential evidence, so that was done under
16 the instructions of the SIO."

17 And that's very much what you have just told us in
18 your evidence just now, that you were following a lawful
19 order from the SIO.

20 If we can scroll down to paragraph 100 please:

21 "I am asked if it was my understanding that
22 a warrant was not needed to seize the property because
23 a decision had been made at a senior level that this was
24 a place of interest, and that that was the reason that
25 we were seizing the property. That's right. If there

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1 was a need for a warrant, it would have been obtained
2 retrospectively, and senior management would have made
3 that decision. Because it was an incident that was
4 fluid and was kind of ongoing, and they weren't aware of
5 what's happened, they had made that decision to seize
6 the property. We did that on the instructions of the
7 SIO, and if they decided they needed a warrant to search
8 the property, which I think they would, that's
9 a decision for the SIO. When they were having their
10 Silver meetings or tactical meetings, somebody would
11 have applied for a warrant retrospectively, so
12 regardless, the outcome would be the same."

13 I want to ask you some questions about this. So
14 your evidence is that you are following a lawful order
15 from the SIO who had said the property was to be seized;
16 is that right?

17 A. That's correct, yes.

18 Q. And that lawful order, you say, gave you a common law
19 power to enter the property and seize the property?

20 A. Yes.

21 Q. So just to be clear, your evidence is that because
22 a decision had been taken at a senior level by the SIO
23 that the property was to be seized, there was no need
24 for a warrant?

25 A. There's -- well, to search it there could be a need for

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1 a warrant, but I mean -- we're seizing the property at
2 that time to protect the forensic integrity of it, so if
3 there was drugs within the property they couldn't be
4 disposed of or anything like that. And then ultimately
5 retrospectively, if they would -- during their meetings
6 would decide whether they were going to apply for
7 warrants to search a property.

8 Q. And you say in this statement that a warrant could be
9 sought retrospectively. What's the process for that?

10 A. Well, for a search warrant the process would be that
11 they would apply to the Procurator Fiscal who would then
12 make contact with the Sheriff and set up an appointment
13 to get a warrant.

14 Q. Okay, and what information would need to be given to the
15 Sheriff before the Sheriff would grant a warrant?

16 A. In this case?

17 Q. In general?

18 A. Just in general. Well, usually information -- if it was
19 drugs it would be information, intelligence that was
20 available, information that was available and -- because
21 it's their job to make sure that we're not infringing
22 human rights, if you like, as far as that goes.

23 Q. Okay. And what would a Sheriff do if they weren't
24 satisfied that the information was up to standard?

25 A. They wouldn't authorise a warrant.

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1 Q. Okay. Now, can I just be clear: when you say that
2 a warrant could have been sought retrospectively, what
3 exactly do you mean by retrospectively?

4 A. Well, after the property has been seized, because it's
5 to be seized to ensure the integrity of it, so nothing
6 gets displaced or disposed of, they could then apply for
7 a warrant, a search warrant to the Procurator Fiscal in
8 order to ensure that it was legally binding. Because if
9 you have got somebody within a property that are
10 unwilling or uncooperative, because the family did
11 begrudgingly leave the address, they weren't happy,
12 I would have presumed that they would have got a warrant
13 just to make sure that if anything was discovered that
14 was a pertinent part of the investigation, that it would
15 be obtained legally, if you like.

16 Q. So when you say "retrospectively", do you mean after the
17 property has been seized but before a search was carried
18 out?

19 A. Yes.

20 Q. Or do you mean after the search was carried out?

21 A. No, no, no, before the search. But again, that's down
22 to the investigation, it's down to them to decide, but
23 certainly I would have thought they would have
24 considered that.

25 Q. Okay. So we have spoken about instructions from

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1 a senior officer, common law powers and warrants. You
2 haven't mentioned consent at all for the -- as the basis
3 for seizing a property.

4 A. No, no, I haven't. I mean, ultimately -- usually if
5 people consent to search they're quite happy about it
6 and I know sometimes they will sign a notebook and
7 things like that to say that they're happy. But the
8 family -- excuse me -- the family were clearly unhappy
9 about us being within the address and particularly
10 unhappy about having to leave the address. That was the
11 real issue.

12 Q. You say the family were unhappy that the police were in
13 their address.

14 A. Yes.

15 Q. Okay. So should we understand from that that the family
16 had not given consent for the police to be in their
17 house?

18 A. Certainly, yeah, yeah, you could -- you can say that.
19 I mean, we didn't enter the house and were asked to
20 leave or anything like that, but they were unhappy about
21 the police being in the address and they were unhappy
22 about having to leave the address and -- not so much the
23 search, we didn't discuss a search or anything like
24 that, but certainly predominantly they were unhappy
25 about having to leave the address.

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1 Q. Okay. A number of more senior officers have given
2 evidence about the circumstances in which you can seize
3 a property and I would like to put some of that evidence
4 to you for your comment.

5 Sergeant Dursley, in his Inquiry statement -- we
6 don't need this on the screen but just for reference
7 it's SBPI 00228, at paragraphs 131 and 154 -- said that
8 he assumed the occupants had consented to the property
9 being seized as he had not had any feedback that there
10 was any difficulty and that if there had been an issue
11 he would have referred that to the SIO and would be
12 thinking about warrants.

13 Do you want to make any comment on that?

14 A. I cannae really comment on that. I mean, everything
15 that was happening was fed back to DS Dursley,
16 I believe. It was DC Petrie that done the phoning. But
17 they were quite clear -- I know Kev, when he phoned
18 him -- I mean, he would have given him a full update of
19 exactly the situation that we had, the family members
20 that were there, the fact that they were asking for
21 a warrant; all that information would have been passed
22 back.

23 Q. Okay. Certainly DS Dursley's evidence was that he
24 assumed that the attending officers had obtained consent
25 and he would have expected to hear about it if there had

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1 been an issue.

2 A. Well, as I say, he's -- my recollection is he was
3 contacted at least twice from that address and the
4 information of exactly what was happening~... So again,
5 I cannae really speak to what was said because it wasn't
6 me that was doing the phoning, but certainly the -- it
7 was quite clear, we had been asked by Mrs Rashid, and
8 Mr Ahmed when he come along, about a warrant, it was
9 quite clear that they weren't consenting to a search of
10 the property.

11 Q. Let me tell you what Garry McEwan said in his evidence.
12 He said that:

13 "To go for a warrant you have to stipulate on the
14 warrant predominantly what it is you are going there
15 for, what purpose, and at that early stage I'm not sure
16 that level of information and detail would have been
17 known."

18 He was asked:

19 "Question: So they may not have been in a position
20 to secure a warrant because they couldn't have all the
21 details?"

22 And he said:

23 "Answer: Perhaps not.

24 "Question: So you are very much dependent on consent
25 being given?"

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1 And he said:

2 "Answer: Yes."

3 So he too suggested that he understood that consent
4 was the basis upon which the property was being seized.
5 Do you have any comment to make on his evidence?

6 A. No, not particularly. As I say, the family were clearly
7 unhappy and that was relayed back to them. Eventually
8 when they did leave it was quite clear that the main
9 aspect was trying to get them back into the property for
10 Abid, for his -- for the evening.

11 Q. We also heard from Pat Campbell, the SIO. He gave
12 evidence that he understood that common law powers had
13 been used to seize the property and that the property
14 was to be searched on the basis of the occupiers'
15 consent. He also gave evidence that if consent had not
16 been obtained then he would have sought a warrant. Do
17 you have any comment on that?

18 A. I don't know where they have -- why they thought consent
19 had been given. I mean, it was at the stage -- we have
20 not even asked anybody to sign a notebook to consent to
21 searching addresses or anything like that. It would
22 have been pointless asking, so I don't know -- it must
23 have just been a breakdown in communications. But, as
24 I said, we had fed back that the family were quite
25 unhappy about having to leave the address, so why they

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1 have thought that they were consenting to a search,
2 I don't know. You would have to ask them that.

3 Q. Finally, can I tell you about the evidence given by
4 Stuart Houston, crime scene coordinator -- sorry, not
5 oral evidence but in an Inquiry statement. Again, we
6 don't need this on the screen, but for reference it's
7 SBPI 00214 at paragraph 266:

8 "I have been told the occupiers' position is that no
9 permission was given for the police to secure the
10 property and that a complaint was made. I wasn't aware
11 of this. I would dispute that they said they didn't
12 give permission. If we didn't have permission then we
13 would stay there until we had a warrant."

14 Again, do you have any comment to make on that?

15 A. Yes. Again, if somebody's unwilling I would think it
16 would be a matter of course that you would apply for
17 a warrant.

18 Q. Just to be clear, are you saying that if someone is
19 unwilling to let you seize the property, you would apply
20 for a warrant, but if someone is unwilling to let you
21 search the property you would apply for a warrant, or
22 both?

23 A. To search a property. Obviously they had deemed the
24 need to seize the property there and then, just to
25 protect the forensic integrity of anything that was

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1 within the address.

2 Q. You mentioned once or twice notebooks and signing
3 notebooks. What were you referring to?

4 A. It's practice -- I don't know if it was practice at that
5 time, it's that long ago, but certainly if you were
6 looking to search something and somebody was willingly
7 accepting you do that, we would get an entry in
8 a notebook and ask them to sign that so there was
9 a record to say that they were consenting to that
10 search.

11 Q. Would you also do that if someone was consenting to you
12 coming into their house and seizing their house?

13 A. No, it's not something I've ever done before or since.

14 Q. Okay. Can I tell you about the evidence that we have
15 heard from another constable, a DC Finch. He gave
16 evidence that when an occupier grants permission for
17 their home to be seized he would record that so that
18 there couldn't be any dispute about that in the future.
19 He said:

20 "Answer: I can tell you how I would capture such
21 permission. I would build that within the witness
22 statement. I would make it clear that we have explained
23 that they're under no obligation to do so, it's been
24 explained why -- you know, the purpose of doing it and
25 what we're looking to achieve, and the fact that if they

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1 become uncomfortable at any point they can withdraw that
2 permission and I would capture that within the body of
3 a signed statement from that witness."

4 He went on to say that if the statement was being
5 taken at a later point in time he would capture that by
6 means of a paragraph within his notebook and he would
7 ask the witness to sign it to make clear they understood
8 they were under no obligation to allow him to seize the
9 property. That's how he would approach matters. And he
10 was asked why that was his practice and he said:

11 "Answer: To withstand future scrutiny that we have
12 demonstrated a level of fairness and explanation to the
13 witness."

14 Can I invite your views on that because your
15 practice seems to be different. You suggest that you
16 might record consent to a search in a notebook but you
17 wouldn't record consent to entering and seizing
18 someone's home?

19 A. Yes, well, certainly that's best practice what's being
20 described there, but we haven't actually seized
21 a property from witnesses before or since, or certainly
22 I haven't, especially a secondary crime scene. So, as
23 I say, as far as I was concerned the property had
24 already been seized by the officers that were there. We
25 went along to try and explain the situation and the

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1 need, you know, to do that and it was -- as I said all
2 along, it was quite clear the family were quite unhappy
3 with having to leave the property.

4 Q. You say that Constable Finch's practice, as described by
5 him in his evidence, is best practice, albeit it's not
6 a practice that you necessarily follow yourself?

7 A. Yes, definitely, but, as I say, that's -- what you're
8 referring to there is somebody that's quite happy and
9 willing for a search and that to happen. That wasn't
10 really the case when we were there. I mean they were
11 clearly unhappy.

12 Q. You said earlier in your evidence that you had gone
13 along to explain and persuade and reassure the
14 occupants. As part of your attempts to explain and
15 persuade and reassure, did it occur to you to ask them
16 for permission, try to bring them with you in that way?

17 A. No, it didn't because they were clearly unhappy. That
18 wasn't a question that was asked because, as I say, the
19 family were unhappy that the police were there. They
20 were unhappy about having to leave the address, so
21 I never once considered asking them to consent because
22 it wasn't a question that was going to be willingly
23 received, if you like.

24 Q. Would you do anything differently now if the situation
25 arose tomorrow?

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1 A. Oh, definitely. I mean, you reflect on everything that
2 you do and certainly I think the key factor was that we
3 weren't able to provide information. They had no idea
4 why we were there, so they were quite rightly unhappy of
5 why we were there. If we were able to tell them and
6 explain the connection with the property and the need to
7 do it and the need to search it, I think it would have
8 probably been better. But, as I say, the time we got
9 there, Mrs Rashid and her family members were annoyed
10 before we even arrived so it was quite difficult.

11 Q. Can we look at Mrs Rashid's Inquiry statement please.
12 It's SBPI 00260. Can we look at paragraph 3 please.
13 Sorry, can we scroll down a little. I think I have
14 recorded the wrong paragraph number. Keep scrolling
15 please. Okay, if we can just pause there. I would like
16 to read you an extract from her statement. I seem to
17 have misplaced the paragraph number but I will check
18 that over the break and we can confirm the paragraph
19 number for you, but for now to allow us to move on
20 I will simply read it out, if you don't mind:

21 "A man in a suit was banging on the back door. He
22 was quite tall and broad, maybe in his forties. I think
23 he had a moustache or some kind of facial hair.
24 I opened the door and he told me we needed to vacate the
25 property~... I told him we wouldn't unless they had

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1 a warrant. He was very ... abrupt and quite rude. [And
2 said they didn't need a warrant to come into the house.]
3 I was frightened and scared and didn't know what to do.
4 ... I remember closing the door and he went away~...
5 Then he came back and there were more of them. He
6 knocked again. I opened the door."

7 Thank you, we're in paragraph 4, thank you. I'm
8 reading it slightly short:

9 "He knocked again. I opened the door. He was with
10 another man in a suit, who looked younger. They said
11 they didn't need a warrant, and that we had to vacate
12 the house now. They said we didn't have a choice and
13 had to let them in because [it was to do with evidence]
14 and they had to search the house."

15 It's a long paragraph so I have read it slightly
16 short.

17 We have it on screen in front of us now. I wanted
18 to ask some questions about that. We have already
19 looked at the scene entry log, I don't think we need to
20 pull that back up on the screen again, but I think we
21 were able to see from that scene entry log that the only
22 people who were at the locus before you and
23 Constable Petrie left at 2.45 in the afternoon were
24 yourself, DC Petrie, PC Fraser and PC Aitken.

25 A. (Nods).

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1 Q. You're nodding. Do you recall seeing that in the scene
2 entry log?

3 A. Yes, yes.

4 Q. We can bring that up again if that would be helpful. So
5 there were only four people within the house and you
6 have explained to us that officers who were standing
7 perhaps on the path or the roadway outside, their
8 details might not have been recorded but anyone who
9 entered into the house, their details ought to have been
10 recorded.

11 So as we have discussed already, Constable Aitken is
12 a woman and only yourself and DC Petrie were wearing
13 suits. Is that right?

14 A. That's right, yes.

15 Q. Okay. And Mrs Rashid describes a man in a suit:

16 "A man in a suit ... banging on the back door. ...
17 quite tall and broad, maybe in his forties. I think he
18 had a moustache or some kind of facial hair. I opened
19 the door and he told me we needed to vacate the
20 property~... I told him we wouldn't unless they had
21 a warrant."

22 So only you and Constable Petrie were wearing suits
23 and you are -- how tall are you?

24 A. 5.11.

25 Q. And how tall is DC Petrie?

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- 1 A. I think he will be 6-foot.
- 2 Q. So he is also tall?
- 3 A. Yes.
- 4 Q. Okay. How old is Constable Petrie?
- 5 A. I think he will be about 45 or something now.
- 6 Q. If I told you his date of birth was 1981 and your date
7 of birth is which year?
- 8 A. '69.
- 9 Q. '69, so you're a little bit older than him. Did you
10 have facial hair at the time?
- 11 A. No.
- 12 Q. You didn't. Did Constable Petrie?
- 13 A. No.
- 14 Q. Mrs Rashid certainly describes this man in a suit as
15 tall, maybe about 6-foot and broad; and you describe
16 yourself in your statement -- we don't need to go to it
17 but it's at paragraph 37 -- as "stout"?
- 18 A. Yes.
- 19 Q. And I wonder whether Mrs Rashid appears to be describing
20 you here?
- 21 A. No, that certainly wasn't -- can I -- excuse me, can
22 I just ask, was there a bit further on or just before
23 that, did it say somebody had gone to the door looking
24 for the brother; is that correct?
- 25 Q. Let's check. Let's scroll back up. Paragraph 3:

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1 "The police came to the door asking for my brother,
2 Zahid. I told them he wasn't at home. I asked what it
3 was about but they didn't say anything. They just said
4 it was fine. They asked what time he would be home.
5 I hadn't seen him all night and didn't know where he
6 was. They went away. I think my mum was maybe in the
7 bathroom at that point and [someone] was still in bed
8 but I'm not sure".

9 Then:

10 "Around an hour's time lots of officers came to the
11 house. I couldn't count how many. A man in a suit was
12 banging on the back door. He was quite tall and broad,
13 maybe in his forties."

14 A. I would suggest, and I don't know if this is correct or
15 not, that -- where was Zahid picked up about, if we go
16 back to the~...?

17 Q. Well, I don't want to get drawn into --

18 A. No, no, I know. But what I'm suggesting is that that
19 isn't me and DC Petrie, that's an incident that's
20 happened before we've got there, I would suggest,
21 because we certainly didnae bang on any doors as
22 described.

23 Q. Well, let's look in most are detail at paragraph 4 to
24 see if we can be clear about whether she is describing
25 something that happened earlier or something that

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1 happened at the time that you were at the property. She
2 does say, "Around an hour's time", I think that perhaps
3 should read "an hour's time later".

4 A. Mm-hm.

5 Q. She describes, if we can go back to paragraph 3 please,
6 the officers who came looking for Zahid going away and
7 then in an hour's time more officers coming to the
8 house:

9 "A man in a suit was banging on the back door. He
10 was quite tall and broad, maybe in his forties. ...
11 I opened the door and he told me we needed to vacate the
12 property for an investigation. Lots of other officers
13 were standing in the garden. They seemed to be waiting
14 for the go ahead to come in ... The officer in the suit
15 said they didn't need to disclose any information and
16 that we needed to vacate the house. I told him we
17 wouldn't unless they had a warrant. He was very pushy,
18 abrupt and quite rude. I felt really intimidated by
19 him. I was frightened and scared and didn't know what
20 to do. I can't remember what else I said to him.
21 I remember closing the door and he went away and I could
22 see him walking round to the front of the house, then he
23 came back and there were more of them. He knocked
24 again. I opened the door. He was with another man in
25 a suit, who looked younger. They said they didn't need

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1 a warrant and that we had to vacate the house now. They
2 said we didn't have a choice and had to let them in
3 because this was a crime scene and they need to seal the
4 house and they had to search the house."

5 A. That -- I can tell you right here and now that isn't me
6 and DC Petrie. There's obviously been other people at
7 that address, if that's how Mrs Rashid recalls it,
8 because we went straight into the property and we
9 remained in the property. She is talking about people
10 coming out of the property, going back round and things
11 like that and we certainly weren't rude or anything like
12 that, so I don't -- you would obviously have to ask her
13 exactly what it is but that isn't me and DC Petrie that
14 is being described there.

15 I would suggest that that's been earlier, before
16 we've gotten there. That is prior to the radio message
17 that's gone saying that the property's to be seized, is
18 how I would suggest that paragraph sits.

19 Q. All right. Well, let's read on to see if that might
20 shed any light as to when in time this happened. If we
21 can go to the next paragraph please. She explains:

22 "I told them that we couldn't do that, and that
23 I had to speak to my dad as I have a disabled brother.
24 I explained to them that [he] can't walk, he needs
25 support to move around and get into a vehicle and told

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1 them that I couldn't do that on my own because I was
2 looking after my children and~... and was not strong
3 enough ... "

4 If we keep going, just to get the flavour of her
5 statement:

6 "I can't remember what they said, but I remember
7 when I said I had to contact my dad they said they
8 couldn't allow anyone into the house. I told them that
9 I couldn't drive ... very little space ...

10 "... I told them I needed to phone my brother ..."

11 There's a conversation about that. If we can scroll
12 down a little bit further please. So there seems to
13 be -- I'm going through this quite quickly, sergeant,
14 but it seems to be her position that officers came to
15 the house looking for her brother, they went away. An
16 hour later, other officers came back and plain clothes
17 officers knocked at the door and then she describes what
18 happens after that and she describes at paragraph 9 the
19 tall officer forcing himself into the house:

20 "He walked into the house, pushing me towards the
21 sitting room because as he walked towards me I had to
22 walk backwards. He came through the kitchen and stood
23 in the sitting room. I was panicked at this stage,
24 I was worried about the safety of my children, my
25 disabled brother and my elderly mum."

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1 And:

2 "I was suffering from [something] which added to
3 this fear."

4 So she describes here the tall officer, who I think
5 is the one she described as being in plain clothes,
6 forcing himself into the house. And we will look at the
7 language used there later, but for present purposes she
8 describes that officer coming into the house. And we do
9 know, because it is your evidence, I think, that you did
10 go into the house?

11 A. That's correct, yes, yes.

12 Q. And we do have a scene entry log that has -- records who
13 has gone into the house, so although you may take issue
14 with the detail of Mrs Rashid's evidence, would you
15 accept or not that she appears to be describing, in the
16 paragraphs that we have looked at, the moment that
17 yourself and Constable Petrie and perhaps also the
18 uniformed officers arrived at her property?

19 A. Yes, that bit. What she is describing before isn't
20 anything that me and DC Petrie did. As I said, we went
21 straight into the property. We didn't bang at the door
22 and go away and come back. We went to the back door,
23 spoke to the officer at the back door briefly and then
24 entered the property.

25 Q. Okay. So if we can scroll back up. I think we began at

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1 paragraph 4 of her statement. Just so I can be clear
2 what you accept and what you dispute, so you were
3 wearing a suit but you say you were not banging on the
4 door; is that right?

5 A. That's right, yes. She is describing somebody having
6 a moustache or facial hair, that's not me or DC Petrie
7 either.

8 Q. That's not you. Let's just go through this line by
9 line. She also says he was quite tall and broad.
10 You're 5-foot 11 and would you describe yourself as
11 broad? I think you used the word "stout" in your
12 statement --

13 A. Yes, yes.

14 Q. -- would tall and broad be fair?

15 A. Well, yes, but as I was saying, most people would -- if
16 they were being kind would describe me as being stout,
17 yes.

18 Q. All right, and in your 40s at that point in time?

19 A. I was in -- yes, yes.

20 Q. You say you didn't have a moustache or facial hair, nor
21 did DC Petrie:

22 "I opened the door and he told me we needed to
23 vacate the property for an investigation."

24 Did you say to Mrs Rashid that she and her family
25 needed to vacate the property for an investigation?

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1 A. Not at the door, not as that's described. Certainly we
2 did when we were within the house.

3 Q. Okay:

4 "Lots of other officers were standing in the
5 garden."

6 Do you have a comment on that?

7 A. As I say, I don't know where these officers have --
8 there couldn't have been lots of officers standing in
9 the garden.

10 Q. Okay. Let's move on then to:

11 "The officer in the suit said they didn't need to
12 disclose any information, and that we needed to vacate
13 the house."

14 Is that something that you would have said?

15 A. Yes. I think I'm asked about that in my statement. We
16 wouldn't say -- we wouldn't disclose, maybe we would
17 have said we couldn't disclose information, again going
18 back to the integrity of the ...

19 Q. Okay:

20 "I told him we wouldn't unless they had a warrant."

21 A. Yes, she did ask for a warrant and I know it says there
22 that we were pushy, abrupt and quite rude. At that
23 stage because the family are so unhappy we're expecting
24 a police complaint to come in. You know when people are
25 unhappy they're going to be complaining, so we certainly

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1 weren't rude or pushy in any way, shape or form, I can
2 assure you of that, because in these situations when
3 people are likely to complain about you, you're careful
4 of your terminology and your body language and what
5 you're saying and how you're acting, just to ensure that
6 it's not construed incorrectly.

7 Q. Okay. So you take issue with that description of the
8 way that you presented yourself. She goes on to say she
9 felt intimidated, frightened and scared. She says:

10 "I remember closing the door and he went away and
11 I could see him walking round to the front of the house,
12 then he came back and there were more of them."

13 Did you at any point walk to the front and then
14 return to the back?

15 A. No, we went in -- this is why I'm saying I don't know if
16 this is from earlier or what because we entered the
17 property and we stayed within the property until we
18 left. We never exited it at all. In fact the only time
19 we did exit it was shortly before she left to move the
20 car that had been left there because it was blocking
21 them in, her vehicle in.

22 Q. In any event she says:

23 "He knocked again. I opened the door. He was with
24 another man in a suit, who looked younger."

25 I think you said DC Petrie was younger than you?

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1 A. Mm-hm.

2 Q. "They said they didn't need a warrant, and that we had
3 to vacate the house now. They said we didn't have
4 a choice and had to let them in because this was a crime
5 scene and they need to seal the house and they had to
6 search the house."

7 Did you say those things to Mrs Rashid?

8 A. Yes, we would have said something similar to that whilst
9 we were within the house, when we were trying to explain
10 the reason for the police being there and, you know,
11 what was going to be happening.

12 Q. So although there may be differences between you in
13 terms of whether you knocked at the door, whether that
14 was once or twice, whether there were people standing in
15 the garden, whether you were pushy, abrupt and rude and
16 so on, would it appear to you, sergeant, that she is in
17 fact describing the same incident, the occasion on which
18 you and DC Petrie went to her door on 3 May?

19 A. Yes, I agree with some of it. Whether -- as I say,
20 I don't know if there's been officers there beforehand
21 and it's mixed together, I don't know. But certainly,
22 yes, what she's mentioned is right enough about us
23 saying that the need for the warrant and her not wanting
24 to vacate the house.

25 Q. Okay, and we have gone through this paragraph to clarify

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1 exactly where the differences lie between you.

2 A. Yes, yes.

3 Q. Okay. Perhaps we can look at paragraph 4 of her
4 statement -- are we on paragraph 4?

5 A. Could I take a quick comfort break, if that's all right?

6 Q. I think that's well timed, sergeant.

7 LORD BRACADALE: We usually have a break at half past 11 so
8 we will take a break now for 20 minutes.

9 A. Thank you.

10 (11.29 am)

11 (Short Break)

12

13 (11.55 am)

14 LORD BRACADALE: Ms Thomson.

15 MS THOMSON: Thank you, sir.

16 Can we go back to your Inquiry statement please and
17 I would like to take you to paragraph 39. You say at
18 paragraph 39:

19 "Mrs Rashid was clearly upset - not emotionally
20 upset but annoyed - that she was being asked to vacate
21 her household and they left albeit begrudgingly, which
22 I fully understand. There was a conversation back and
23 forward. We were trying to explain the process to her.
24 She'd asked for a warrant. It was explained that we
25 didn't need a warrant, that it was an ongoing

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1 investigation and that the SIO had made the decision to
2 seize it."

3 So you have already given evidence that as far as
4 you understand things where the SIO has given an
5 instruction that a property is to be seized then you
6 have a common law power to seize that property. But
7 here in this paragraph you describe Mrs Rashid being
8 asked to leave and the family leaving begrudgingly. And
9 they had asked for a warrant, you had tried to explain
10 the process to her.

11 Can you help us to understand -- seizure of
12 a property is one thing, but here you're asking the
13 occupiers to actually leave the property. What's your
14 authority, your lawful authority for doing that?

15 A. Excuse me. It wasn't so much lawful authority. We
16 were -- we tried to explain about the need for the
17 forensic integrity of the property, you know, that there
18 was people within it, in order to seize it and secure it
19 that we would need them to vacate, so we had a long
20 conversation backwards and forwards with her about that
21 and that's really -- it was a long discussion as far as
22 that goes.

23 Q. I'm not sure that I understand your evidence as to what
24 your authority was to get these people out of their
25 house?

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1 A. There wasn't -- we were trying to persuade them to leave
2 the house so that it could be contained and searched
3 later on.

4 Q. When you say you were trying to persuade them, do you
5 mean you were trying to obtain their consent?

6 A. To an extent, yes. We were asking them to leave, as
7 I had said, because we were needing to protect the
8 integrity of the address.

9 Q. So do you have any power to force them to leave?

10 A. Not particularly that I'm aware of. I mean, if they had
11 refused to leave indefinitely we would have fed that
12 back in basically and it would be at that stage I would
13 think you would be needing to get a warrant to seize it.

14 Q. Okay, so you're not aware of a power that would allow
15 you to force someone out of their own home?

16 A. Not -- I mean, obviously other family members were just
17 not directly involved, they were witnesses, so it
18 wasn't -- normally in an address it's usually -- it
19 would be somebody that would be directly involved and
20 you would have other police powers to maybe detain them,
21 to take them to interview them and things like that, but
22 certainly not -- that wasn't the case as far as that
23 goes.

24 Q. There was no power that you were aware of that would
25 have allowed you to force this family on to the street

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- 1 if they had refused to leave?
- 2 A. Yes. Well, we wouldn't force them out into the street,
3 but yes.
- 4 Q. So if you didn't have a power to force them to leave,
5 does it not follow that you were relying on their
6 goodwill, their cooperation, their consent?
- 7 A. Yes, yes, we were.
- 8 Q. Would it also follow that they did not have to consent
9 to leaving their home?
- 10 A. That's correct as well, yes. I suppose technically they
11 wouldn't have to consent. It's their address.
- 12 Q. And what steps did you take to make sure they understood
13 that they didn't have to consent to leaving their home?
- 14 A. I don't know. I don't recall if I took any steps as far
15 as that goes.
- 16 Q. And what steps did you take to record their
17 understanding and their consent?
- 18 A. I didn't -- as I said, I didn't record anything like
19 that. We knew they were very unhappy and unhappy to be
20 leaving, so -- but it wasn't recorded, it was passed
21 back that they were leaving begrudgingly.
- 22 Q. We spoke earlier about making entries in notebooks?
- 23 A. Yes.
- 24 Q. Did you make an entry in your notebook?
- 25 A. I think I noted details but I didn't make an entry as

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1 such.

2 Q. So you didn't, for example, make an entry to the effect
3 that Mrs Rashid and her family were leaving willingly,
4 that they had been advised that they weren't duty bound
5 to leave, but they were leaving of consent and have
6 Mrs Rashid sign that?

7 A. No, I didn't have anything like that.

8 Q. Why not?

9 A. I didn't think about doing it at that time and, as
10 I said, they weren't consenting as such. They were
11 begrudgingly leaving. They weren't happy about having
12 to leave and when Mr Ahmed came along the conversation
13 was more towards the welfare of Abid, about trying to
14 get him back into the address. That was their main
15 focus, if you like.

16 Q. You say the family weren't happy, they left
17 begrudgingly. You have also told us that Mrs Rashid
18 asked for a warrant; is that right?

19 A. That's right, yes.

20 Q. Yes. And she gave evidence on 8 February of this year.
21 She was asked did she feel she had a choice but to leave
22 and she replied no, she didn't think she had a choice.
23 Do you have any comment on that?

24 A. No, not particularly. Obviously our job was there just
25 to try and persuade, encourage, whichever way you want

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1 to look at it, to -- for the family members to vacate
2 the property so it could be seized, so the forensic
3 integrity could be secured, but certainly that wasn't
4 a conversation that we -- or certainly I had with her.

5 Q. Looking back now with the benefit of hindsight and
6 reflection, do you see why Mrs Rashid may have felt that
7 she didn't have a choice?

8 A. Yes, yes, I do. I don't fall out with that at all. As
9 I have said all along, if the police came into my
10 property on a Sunday and asked me to vacate, I wouldn't
11 have been happy either.

12 Q. And again, if you found yourself in this situation
13 tomorrow is there anything that you might do
14 differently?

15 A. Oh, definitely. We would make sure the family members
16 were fully aware of their rights. We would make sure
17 that they were given more information than what they
18 were given.

19 Q. And would you make sure that they understood that they
20 didn't have to leave and that you were asking them to do
21 that with consent?

22 A. Yes, I would do. I would make sure that was the case.

23 Q. And would you get them to sign a note to that effect in
24 your notebook?

25 A. Definitely. If they were leaving and they were

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1 providing consent, yes, I would definitely do that.

2 I don't know back at that time if that was something
3 that we done, but certainly it's common practice
4 nowadays to do that.

5 Q. And what would be the advantages of doing that?

6 A. Just obviously that you're recording the fact that
7 they're agreeing to what you're asking them to do, that
8 there's an actual record of it.

9 Q. Do you recall how long you were within the family home?

10 A. I reckon it must have been the best part of an hour in
11 total.

12 Q. I think when we looked at the scene entry log -- we
13 don't need to bring it up on the screen again, but it
14 records you arriving at 13.40 and leaving at 14.45, so
15 just over an hour at most?

16 A. Yes, that would be right.

17 Q. In fact I wonder if we can bring it back up again, the
18 scene entry log please, and if we can look at page 9.
19 So your entry is the entry at the very bottom there. As
20 we discussed earlier, you used little dash marks --

21 A. Yes.

22 Q. -- to replicate the information recorded in the entry
23 above so it effectively reads as:

24 "1340. 3 May 2015. Gordon Miller. Secure locus."

25 Can I ask why it doesn't say there that you went

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1 into the house?

2 A. I think ... I think maybe the scene log wasn't started
3 at that time. I don't know, to be honest. You mean
4 in -- I'm not quite sure what you mean actually to be
5 honest.

6 Q. I'm sorry, if I'm unclear that's entirely my fault.
7 Well, you have told us that your purpose in going to
8 this property was to explain and persuade and reassure
9 the occupants to leave and you have told us that you
10 went into the house and spoke with Mrs Rashid.

11 A. Yes.

12 Q. But the scene entry log says that your reason for entry
13 was to secure the locus.

14 A. Yes, that -- predominantly that's what we were there to
15 do: to speak to the family members in order that the
16 locus could be secured.

17 Q. I'm just wondering then why there's no reference to you
18 entering the house and speaking with the occupants under
19 the heading, "Reason for entry", why it just says,
20 "Secure locus"?

21 A. It's not something I would put in. I mean the overall
22 reason for us being there is to secure the locus, so
23 that -- the reason for the scene log is just to signpost
24 the times that the officers are in and out of that
25 particular scene, if you like.

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1 Q. Because you can't tell by looking at the scene log that
2 you have been into the property or that you have had any
3 dealings with the occupants.

4 A. Well, it says that we're there to secure the locus,
5 so -- yeah, I understand what you are saying, but it's
6 not something that we would have recorded down there.
7 I mean the reason is, as I say, it's more a forensic
8 reason than anything, to understand who is going in and
9 out of the property.

10 Q. Okay. Can we look at page 4 of the log please. Sorry,
11 page 4 of the PDF please. So we see that this is
12 a pro forma headed up, "Role of the scene entry
13 loggist":

14 "The Entry Log Keeper plays a vital role in ensuring
15 the security and integrity of a scene.

16 "Where such a serious crime/incident has occurred,
17 the first officer at the scene is responsible for
18 introducing control and arranging the commencement of
19 a Scene Entry Log. The purpose of this log is to
20 exclude everyone from the scene, irrespective of rank or
21 department, until advised by the Crime Scene Manager~...
22 or the Senior Investigating Officer~... The only
23 exception to this may be other Emergency Services
24 personnel, where it is necessary to preserve life or,
25 where there is a requirement, to establish that death

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1 has occurred."

2 And further down, four paragraphs from the bottom of
3 the page:

4 "It is the duty of the officer maintaining the Scene
5 Entry Log to ask for identification, deny access if
6 unsure and to notify the CSM or their supervisor as
7 appropriate. In such circumstances the officer
8 concerned will be fully supported in their actions.

9 "The accurate completion of this log is a crucial
10 part of any serious incident as it may later be
11 necessary to account for every person who has had access
12 to the scene, the precautions taken to ensure its
13 integrity and to prevent the potential for
14 cross-contamination of evidence."

15 So I'm just wondering, against the background of the
16 stated purpose of a log of this sort being kept, whether
17 it might have been helpful if the log had recorded that
18 you had gone into the property?

19 A. Well, from reading it, it is suggesting that I'm going
20 into that, so I mean that is signposting that I have
21 been there and that would be further backed up by my
22 statement of exactly what we have done.

23 Q. Let's go back to the entry please. It was on page 9.
24 Because we have heard evidence that typically -- and
25 this was not a typical case because there were people at

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1 home, but typically locus protection would involve
2 someone standing at the front, someone standing at the
3 back. No one would actually need to go in.

4 A. Yes, that's correct, yes.

5 Q. So I'm just wondering how anyone reading this log would
6 know that this wasn't a typical scenario and that there
7 had been more to it than locus protection at the front
8 and rear of the property and in fact you had gone in?

9 A. Yes, that's a fair point. Yes, that's a fair point.
10 Normally it's very limited what they put in the reason
11 for entry, whether it's to search or what the reason is.
12 But no, I get that, I get that. As I said, I have -- we
13 just recorded we were there to secure the locus. We
14 knew that we had entered the locus but in hindsight
15 maybe we should have put down as you describe.

16 Q. When we looked at page 4 -- we don't need to go back to
17 it, but when we looked at it a moment ago there was
18 information about the need to ensure the forensic
19 integrity of the locus and prevent cross-contamination
20 and so on. And again, given that you went into the
21 property, would the very fact that you went into the
22 property create an opportunity for cross-contamination?

23 A. Well, everything could be seen as an opportunity, but --
24 yes, but we hadn't been anywhere near any of the other
25 loci or anything like that, so there wasn't

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1 a cross-contamination consideration, if you like. But
2 certainly that's something that we do consider.

3 Q. You weren't wearing a suit?

4 A. No.

5 Q. As in a forensic suit --

6 A. No, no, no.

7 Q. -- on top of your clothes?

8 A. No, no - yeah, no, I wasn't --

9 Q. We know you were wearing a suit, but not a forensic one?

10 A. No.

11 Q. Or gloves?

12 A. No.

13 Q. A mask or anything like that?

14 A. No.

15 Q. And at the point in time you went into the house you
16 knew very little about the incident, and would it be
17 fair to say you didn't fully appreciate what the
18 relevance of the property might have been?

19 A. Yes, that's fair to say. I think at that stage we
20 thought we would be looking to search the property for
21 either drugs or potentially a bladed article or
22 something like that, but certainly we weren't suited up
23 or anything like that. That would be more if it we were
24 going to be actively involved in a search, we would do
25 that.

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1 Q. Okay. And you say you thought it would be drugs or
2 a blade. Was that an assumption on your part, that that
3 would be the sort of evidence that would be looked for
4 in due course?

5 A. That -- yes, that was my own assumption, yes.

6 Q. Okay. We have heard evidence that in actual fact when
7 a search was carried out all that was really of interest
8 to the SIO was some clothing. Were you aware of that?

9 A. No, I certainly wasn't aware of that, no.

10 Q. Okay. Can we go back to your Inquiry statement please.
11 Can we look at paragraph 34:

12 "I am asked if DC Petrie and I were in close
13 proximity throughout the time we were at [the address].
14 Yes, most of the time. I think he maybe removed himself
15 to make a phone call, but yes, we were in the kitchen
16 area, and there was another officer in with us as well.
17 I am asked if that was one of the two or three officers
18 to whom I have already referred. It was. I didn't know
19 them. DC Petrie did. He knew who they were, but there
20 weren't any officers that I knew."

21 You say here that you were in the kitchen and, as we
22 discussed previously, there was a sort of living area,
23 you said there might have been an archway separating the
24 kitchen from the living space.

25 A. Yes.

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- 1 Q. Do you recall how far you went beyond the point of
2 stepping inside the back door?
- 3 A. I was -- well, the -- excuse me. The door was at the
4 sort of far end of the kitchen, so I was past the
5 kitchen and I was standing at the far end of the
6 kitchen, if you like, in-between. If I recall
7 correctly, I think there was maybe even a rail where the
8 ramp was going to the left, where Abid's bedroom and
9 that was, so I was standing there most of the time.
10 Mrs Rashid and her mother were at the dining table,
11 which was in front of me, with the living room at the
12 back of me.
- 13 Q. Okay. And where was Mrs Rashid's brother?
- 14 A. Abid was in his chair and he came through several
15 occasions, he came through in his chair and he would go
16 back through. They explained obviously -- I think he
17 uses his toilet facilities quite frequently so he was
18 going backwards and forwards there.
- 19 Q. We have heard that Mrs Rashid's children were in the
20 house. Did you see the children?
- 21 A. I don't remember seeing the children, no.
- 22 Q. You say at paragraph 34 that DC Petrie maybe removed
23 himself to make a phone call. How long was he away for?
- 24 A. Several minutes it would have been, I think, when we
25 had -- when the family were clearly unhappy and not

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1 wanting to leave he had gone to phone DS Dursley and
2 update him on the situation.

3 Q. Okay. That aside, were you together all of the time
4 that you were in the house?

5 A. More or less, yes, as far as I can recall.

6 Q. And you say that one of the uniformed officers was there
7 too and I think we have worked out that that must have
8 been Constable Fraser because Constable Aitken was
9 a lady officer?

10 A. Yes.

11 Q. What was Constable Aitken doing?

12 A. I think -- I don't know. I think they must have been
13 outside.

14 Q. So he wasn't in the house throughout the entire time
15 that you were in the house?

16 LORD BRACADALE: I think you're at cross-purposes here. You
17 asked him about Constable Aitken, I think you may mean
18 Constable Fraser.

19 MS THOMSON: I am so sorry. Yes, thank you, sir. That was
20 entirely my fault, I'm sorry for the confusion, I am
21 getting the two uniformed officers muddled up.

22 So we've heard Constable Aitken was the lady officer
23 and you're absolutely right she was outside.

24 A. Yes.

25 Q. Constable Fraser was the male uniformed officer?

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1 A. Yes.

2 Q. Who was in the house?

3 A. He was in the kitchen as far as I recall, yes.

4 Q. And I'm wondering whether he was in the house throughout
5 the entire time that you were in the house?

6 A. I don't know, to be honest. He was certainly there,
7 I do remember. Whether he was there the entire time,
8 I don't know.

9 Q. And to your knowledge did either of the other officers,
10 that would be Constable Fraser or DC Petrie, go upstairs
11 at any time?

12 A. Not that I'm aware of. I certainly don't recall that.

13 Q. Can we turn to paragraph 40 please. I would like to ask
14 you some questions now about information that was
15 provided to Mrs Rashid and her family:

16 "I have been directed to paragraph four on page two
17 of Mrs Rashid's statement, in which she states that an,
18 'officer in a suit said they didn't need to disclose any
19 information, and that we needed to vacate the house'.
20 It has been explained to me that Mrs Rashid does not
21 mention in her statement the name of the officer in
22 question. I am asked if I recall a discussion in those
23 terms with Mrs Rashid, involving either me or DC Petrie.
24 There would be something similar to that, but we
25 wouldn't say we didn't need to disclose any information.

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1 We maybe said that we couldn't disclose information,
2 which is different obviously, but obviously that's her
3 interpretation of that. Those type of things, until
4 you've got it secured you're careful of what you're
5 saying. You'd have to manage it. I have no idea even
6 if they found anything in that house or what there was,
7 but yes, I do recall something similar to that."

8 So I want to ask you about this paragraph. You say,
9 "We maybe said we couldn't disclose information". Did
10 you say to Mrs Rashid that you couldn't disclose
11 information?

12 A. More than likely, yes, because we were having
13 a conversation of why we were there, what we were
14 looking for, things along those lines, so, yes, the
15 likelihood is that we would -- I would have said
16 something like that: we couldn't disclose information.
17 For instance, if it was drugs that they were looking
18 for, I wouldn't say that. It's got to be managed
19 information because until you've got the property
20 secured somebody could dispose of items that you're
21 potentially looking for, so it was very, very limited
22 the information that -- unfortunately that we were able
23 to provide, which was one of the problems really.

24 Q. What information did you have that you couldn't
25 disclose?

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1 A. Well, we didn't know what -- the real connection with
2 the house. We didn't know what we would be looking for.
3 We didn't have that information.

4 Q. So I just want to be clear then whether you had
5 information that you couldn't disclose, or whether you
6 didn't have any information to disclose?

7 A. It's a bit of both, sorry. It's a bit of both.

8 Q. Help me to understand that.

9 A. Well, I don't think we had the information at that time
10 that we could disclose it, but again, going back to the
11 management of crime scenes and things like that, we
12 would always be careful what we were saying until the
13 property was secured.

14 Q. Okay. So as a matter of principle you would always be
15 cautious about sharing information with householders --

16 A. Yes, definitely.

17 Q. -- until a property was secured. But do we understand
18 that on this occasion really you didn't actually have
19 any information to share?

20 A. Yes, that's fair, yes.

21 Q. Let's look at paragraph 41 please:

22 "We were asked why we were there and what we were
23 doing probably half-a-dozen times by her. She was
24 clearly annoyed at being asked to leave her property,
25 which is fair enough. I don't fall out with that at

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1 all. We were not asked half-a-dozen times one after the
2 other. We kept giving her the information that we had,
3 and we kept explaining to her that there was
4 a connection and that the Senior Investigating Officer
5 had decided that it was being seized as a secondary
6 crime scene. As soon as you use that terminology, crime
7 scene, everybody thinks a crime's happened there, so it
8 does get a bit confusing, to say the least. Police
9 terminology, it's fine when you know what it means. We
10 tried to explain as best we could with the information
11 that we had. I do remember I spoke to her, and then
12 I think DC Petrie spoke to her. I can't remember in
13 what order. I think it was maybe in that order."

14 So what information were you able to provide to
15 Mrs Rashid?

16 A. Just that there had been an incident, a serious incident
17 in Kirkcaldy and that someone connected with the
18 incident had returned to that address, that's all the
19 information that we had at that time.

20 Q. Why do you think that Mrs Rashid asked the same question
21 half a dozen times?

22 A. Probably because she wasn't getting the information that
23 she was seeking, to be fair to her.

24 Q. Let's look at paragraph 42:

25 "Unfortunately, we were unable to tell her what

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1 exactly we were looking for. We didn't know because we
2 weren't directly part of the inquiry. We had just come
3 in to assist. We presumed it would be drugs or a weapon
4 or something like that. It went backwards and forwards.
5 I know I spoke to her and then DC Petrie spoke to her
6 but she wasn't happy with what we were saying, which
7 I totally understand. If somebody was asking me to
8 leave my house, especially under the circumstances with
9 them two young kids, one just out of hospital and that,
10 I wouldn't be happy either."

11 So there's a reference here to your assumption,
12 I think you said earlier, that ultimately drugs or
13 a weapon were going to be looked for, so you understood
14 that a search was going to take place. Did you yourself
15 take part in that search?

16 A. No.

17 Q. And at this moment in time you didn't know what was
18 going to be looked for during the search but you made an
19 assumption or presumption that it would be drugs or
20 a weapon?

21 A. Yes, that's purely my own assumption.

22 Q. You have mentioned Mr Ahmed once or twice. I would like
23 to ask some questions about him now. If we can look at
24 paragraph 52 please. So just to clarify, am I right to
25 understand that when you arrived at the house and went

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1 into the house Mrs Rashid was there, her brother was
2 there and her mother was there and you might not have
3 seen the children, but we understand the children were
4 in the house, and Mrs Rashid's father arrived at a point
5 in time after that but before you had left?

6 A. Yes, that's correct. Mrs Rashid wanted to phone her
7 father to help with Abid but also to get him to come
8 along to speak to ourselves as well.

9 Q. Okay. Paragraph 52 reads:

10 "A short time later, the father arrived. I believe
11 there was another brother, but he was outside, and the
12 officers outside let the father in. The father asked
13 very similar questions: why was the house getting taken,
14 asked about a warrant, all the rest of it, and we
15 explained to him that we had very limited information,
16 we knew an incident happened in Kirkcaldy, we had no
17 idea who the male was."

18 Do you recall what you said to the father --
19 Mr Ahmed that is -- about an incident involving a male?

20 A. Not exactly, no, but we did have a conversation. He was
21 wanting to know why, obviously, the house was being
22 seized, what it was that we were looking for, what the
23 connection was, along those lines. But again, we had
24 limited information at that time.

25 Q. At paragraph 53 you say:

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1 "I had no idea, really, the connection with the
2 house, just that prior to the incident they had
3 travelled back to this house. That's all we knew.
4 I suspected myself it might have been drugs or maybe
5 even a bladed article ... that wasn't really explained
6 fully to us. Usually you would be briefed about
7 something like that but because we had just come in to
8 assist that's where we were."

9 So again, you explain that the information that you
10 had was really very limited and that all you knew about
11 there being a connection was that they had travelled
12 back to the house. Who is "they"?

13 A. Zahid singular, sorry, it's just a typo.

14 Q. Can we look at paragraph 68. Halfway down you're
15 talking here about the questions that you were asked by
16 Mrs Rashid and her family, what were you looking for,
17 why were you there. You say:

18 "We answered it on several occasions and, in
19 hindsight, we should maybe have reached out more to the
20 SIO and asked what more information we could disseminate
21 to them. They had all the information that we had,
22 basically, but I would have to say that when her father
23 Mr Ahmed came along initially he was upset annoyed but
24 he seemed to be a lot more understanding. He took
25 control of the situation."

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1 So you say, if we can scroll up just a little bit,
2 please, that with hindsight you should maybe have
3 reached out more to the SIO and asked what more
4 information you could disseminate. Did you reach out at
5 all to the SIO?

6 A. No. The only communication that we had was DC Petrie
7 had phoned DS Dursley a couple of times to give an
8 update on what was happening. That would have been
9 a link into the enquiry, if you like.

10 Q. And if you had reached out to the SIO for more
11 information that you could share with the family, how
12 might that have helped?

13 A. Well, as you said, it was clothes that they were looking
14 for, that could have been the case that we could have
15 secured those clothes and that would have negated the
16 need to potentially decamp the house and -- I don't
17 know, we didn't know at that time, but certainly with
18 that information, if that's all they were looking for
19 and all that they needed we could have asked the family
20 if we could have seized the items that they were looking
21 for and that would have been a -- probably made things
22 a lot easier.

23 Q. Okay. And do you think it would have helped the family
24 if you would have been able to give them more
25 information about the incident and the way the house was

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1 connected to the incident?

2 A. There's no doubt about it, information is key to
3 people's understanding, but I really don't think at that
4 stage we had much information to give. Certainly the
5 more information you can provide to someone, the better
6 their understanding and then the better their
7 decision-making is.

8 Q. So why didn't you ask the SIO if there was more
9 information available that he could share with you, that
10 you could share with the family?

11 A. I wasn't in contact with the enquiry in any way. As
12 I said, the information was fed back by phone call by
13 DC Petrie, so they would have been aware of what was
14 going on at the address. We tend to pass longer
15 information by mobile phone rather than over the radio
16 type thing, so it would have been a discussion that
17 DC Petrie and DS Dursley would have had. Whether the
18 discussion about providing more information was talked
19 about, I have no idea. I'm talking more in hindsight
20 here obviously.

21 Q. Sure. I mean, if you had felt at the time that more
22 information would have helped the family, could you have
23 asked DC Petrie to make that call to DS --

24 A. Definitely. If we knew it was just clothing that we
25 were looking for, if we were able to go and secure the

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- 1 clothing and that's that all they needed the property
2 for, that would have been -- would have reduced the
3 stress levels on all involved.
- 4 Q. Or just more information generally about the incident
5 and the connection of this address to the incident; if
6 you had realised at the time that that information might
7 have helped the family, could you have asked DC Petrie
8 to speak with DS Dursley?
- 9 A. If -- well, yeah. If we knew why they were needing --
10 what the purpose of seizing the address, what the items
11 they were looking for, taking into consideration the
12 occupants within the address because, as we have said,
13 Abid was in a wheelchair, two young children there as
14 well, which I believe Mrs Rashid had come back to her
15 mother's address to -- for one of the young children to
16 recover, so she would be there with her mother, so that
17 would have definitely helped.
- 18 Q. Did you have a police radio with you?
- 19 A. I would have, yes, I would have.
- 20 Q. Did you have a mobile phone with you?
- 21 A. I would have, yes.
- 22 Q. So if it had occurred to you at the time that more
23 information might have been helpful, then you would have
24 had a means of making contact --
- 25 A. Oh, yes, yes.

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1 Q. -- directly with senior officers?

2 A. Yes.

3 Q. Is there anything you might do differently now?

4 A. Anything I would have~...?

5 Q. Anything you might do differently now in terms of
6 getting more information from the SIO?

7 A. Yes. As I said, in hindsight we would have gone back
8 and tried to establish exactly why they're wanting the
9 address, what we could do further to assist the family.

10 Q. Okay. I would like to ask you now about the arrival of
11 another of Mr Ahmed's sons, that would be Mrs Rashid's
12 brother, another brother. If we can look at
13 paragraph 59 of your statement please, to get our
14 bearings. So you are directed to a paragraph in
15 Mr Ahmed's statement in which he states:

16 "At one point one of the detectives told my son
17 that if he attempted to enter the house then they would
18 arrest him. I can't remember for what other than the
19 word 'contempt' being used'.

20 "I am asked if I recall that being said. I do
21 recall that. I don't know if that's what was exactly
22 said. I remember noise. I don't think we were shouted
23 on. I think we heard the noise outside the door, and
24 when we went to the back door he was quite vocal and
25 quite upset, a lot more upset than Mr Ahmed or

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1 Mrs Rashid. He was arguing with the officer that was on
2 the point outside. He was demanding to come into the
3 house. We tried to explain to him that he couldn't get
4 access to the house at this moment in time because at
5 that time his father was there and they were preparing
6 to leave, and we tried to explain about the integrity of
7 the scene. One of the things they train you as
8 a copper, and I don't mean detectives, is if you're
9 sitting there with a scene log, nobody's getting in.
10 Doesn't matter if the Chief Constable comes down and
11 demands to get in, he's not getting in."

12 So you say that Mrs Rashid's brother was demanding
13 to come in. What authority did you have to stop him
14 coming in?

15 A. We were -- as I said, we were trying to protect the
16 scene. He was arguing with an officer outside. We were
17 trying to reason with him the aspect that the family
18 members were just about to come out. At that stage
19 Mr Ahmed had made the decision that they were leaving
20 and that everybody was coming out, so we were trying our
21 best not to introduce further people to the address, if
22 you like.

23 Q. Did he live there, do you know?

24 A. I've no idea to be honest. I don't think so but
25 I didn't ask. He was quite animated, very upset, to the

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1 point I closed the door on him because it seemed the
2 best way to defuse the situation.

3 Q. Let me ask you about that. Can we look at paragraph 60,
4 where you describe the background to you closing the
5 door on him:

6 "He was clearly upset. I don't recall saying that
7 if he attempted to enter the house we would arrest him,
8 and it's not something I would say that I can remember,
9 but if that's how he's recalling it. I do know that he
10 was clearly upset to the extent that we just closed the
11 door and left him outside, because it looked like one of
12 these situations that was going to escalate as he wasn't
13 prepared to discuss the situation. The last thing
14 I want to be doing is restraining somebody from entering
15 the house or anything like that. He was asked to leave,
16 wait outside, told that the other family members were
17 leaving, and I did close the door on him because he was
18 really quite angry. I do remember that. I don't recall
19 saying he would get arrested if he entered the house,
20 but potentially it could have been something that was
21 said, but I don't think so."

22 So you say here, "The last thing I want to be doing
23 is restraining somebody from entering the house". On
24 what authority would you have been able to restrain the
25 brother to prevent him from entering the house?

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1 A. I would be trying to protect the scene, to be honest,
2 and it's just -- it's more just terminology. When -- as
3 I said, the gentleman was quite upset. He was upset
4 with what was happening to his family members having to
5 leave and, as I said, he was more or less breaching
6 outside at the officer that was on point, so that's why
7 I went to try and resolve the situation but
8 I couldn't -- as I said, he was too upset so I just
9 closed the door.

10 As far as authority, well, technically if it's his
11 household there's nothing to stop him coming in, but my
12 job was -- there was to seize the property and try and
13 protect the scene the best we could.

14 Q. I understand that, but when you say in your statement
15 then -- where you make a reference to restraining him,
16 it might just be a turn of phrase but should we
17 understand then that you wouldn't have had any authority
18 to restrain him from coming in if it was his household;
19 he was entitled to enter?

20 A. Yes -- well, as I say, we have seized that property on
21 instructions under common law and we're trying to
22 protect it the best we can. Unfortunately, because the
23 gentleman was so animated it wasn't something that we
24 were going to be able to reason with him, let's say.
25 So, as I said, I closed the door to try and defuse the

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1 situation the best we could. He wasn't left there on
2 his own, he was there with an officer and obviously by
3 closing the door that was going to stop getting access
4 to the property as well, so that was the reason for
5 doing that.

6 Q. Let's look at paragraph 61 where you say a little bit
7 more about closing the door:

8 "After he realised he wasn't going to be allowed in,
9 I remember him shouting. He was saying 'I need to use
10 the toilet. You're forcing me to piss in the garden'.
11 I said, 'We're not' and he said 'What am I meant to do?'
12 All I could suggest is the [somewhere] was just along
13 the road. I said 'There'll be toilet facilities in
14 there you can use', but he was animated. He wasn't the
15 type of person you'd be able to speak to. He wasn't
16 listening. He was clearly upset, which I don't fall out
17 with, but I do remember I closed the door and left him
18 with the officer outside, and that was that. I don't
19 remember his name though."

20 If we can look, before I ask you any further
21 questions about closing the door on this gentleman, at
22 paragraph 67 please where you say -- this is five or six
23 lines from the bottom.

24 "I suppose I was abrupt, if I can call it that, when
25 I shut the door on her brother that was outside, but

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1 that was more just to defuse a situation that was
2 clearly going to escalate, and at that time I felt that
3 was the best way to deal with it because ultimately he
4 was quite emotive, very angry, quite rightly so. But
5 that's the only time we, or rather I, stopped
6 a conversation with somebody because that one was going
7 to escalate."

8 So you seem sympathetic in these paragraphs that we
9 have looked at to the fact that the brother was angry
10 but you were concerned the situation was going to
11 escalate?

12 A. Yes.

13 Q. And you describe him as not the type of person you would
14 be able to speak to?

15 A. Well, what I mean by that, he was so angry at that
16 stage -- I don't mean in general. I'm sure he's
17 a perfectly reasonable individual. it's just at that
18 stage he was quite upset. From his perspective his
19 disabled brother's getting put out of his property, so
20 he's obviously going to be emotive about what's
21 happening to the family. We had discussed it with
22 Mrs Rashid and with her father and, as I say, at that
23 point the family were getting ready to leave, so that
24 was the best way to deal with that incident.

25 Normally I would try and speak and reason with

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1 someone. As I said, he got to the stage -- I didn't for
2 one second think that he was needing to use the toilet.
3 He was just looking to assert himself so he could come
4 in. That's where that had come about and I suggested
5 using facilities that were just a few hundred yards
6 along the road type thing, so the best way to deal with
7 that was just to close the door, leaving him with the
8 other officer to reason with him.

9 Q. You said that the whole purpose of you going to this
10 address was to explain and persuade and reassure the
11 householders and I'm wondering what steps, if any, you
12 took to try to calm this gentleman down, to de-escalate
13 the situation?

14 A. I -- as I said, he was very, very animated. I knew that
15 things would escalate probably so I just left him with
16 the officer to speak to him, so there -- he was so
17 emotive, there was no way I was going to be able to
18 reason with him.

19 Q. What effect did you think shutting the door on him was
20 going to have?

21 A. At the end of the day, it took away probably the
22 temptation for him to try and come in; secondly, for him
23 to argue with me; and thirdly, it left him with the
24 officer to speak to him, which obviously they did and he
25 calmed down and waited.

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1 Q. Looking back is there anything more you could have done
2 to calm the situation down?

3 A. Not in that instance, I don't think so. As I say,
4 unfortunately he was quite angry at that stage, so
5 I could have potentially gone out after he had calmed
6 down and spoken to him again, that is probably about the
7 only thing I could have done.

8 Q. Would providing more information have helped?

9 A. Again, yes, information is key. As I say, this
10 gentleman's brother's getting put out of his home
11 address type thing and he is clearly annoyed and upset
12 about that.

13 Q. Might letting him into the house have helped?

14 A. Potentially it might have. I don't think so though. As
15 I say, we were at that stage where the family members
16 were leaving. They were just getting property together
17 to leave, so it might have but I don't know, to be
18 honest.

19 Q. Is there anything you might do differently now?

20 A. As I say, probably go out and speak to him once he had
21 calmed down, explain what was going on. We did try
22 and -- or rather I did try and do that when he was at
23 the door, but he was clearly upset so difficult to say
24 on that one.

25 Q. You have told us that you really were dependent,

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1 ultimately, on the householders leaving of their own
2 accord and I wonder whether perhaps showing a little
3 compassion and empathy to the brother might have helped
4 the situation?

5 A. Possibly, but I think, as I say, the decision had
6 already been made that the family were leaving at that
7 stage, so they were getting ready to go.

8 Q. Can we look at paragraph 63 of your statement please.
9 Here you referred again to Mrs Rashid's statement where
10 she said:

11 "It felt like they were trying to look for something
12 in the house. Nothing made sense as to why we were
13 removed from our house. We were made to feel like
14 criminals with no rights, we were treated like
15 second-class citizens. We felt vulnerable and
16 victimised."

17 And at 64 you were asked for your reaction to
18 Mrs Rashid's description:

19 "All I would say is if they're in the house and
20 they're getting asked to leave, yes, they feel
21 victimised. I get that. I don't fall out with that at
22 all. That's quite fair. But, certainly, we didn't make
23 them feel like criminals. Maybe their perception is
24 that they felt like that, but they were quite clearly
25 not connected in any way, shape or form, other than that

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1 the property was connected to the incident. I can't
2 really say much more on that. I'm sorry if she felt
3 like that. It wasn't our intention to make people feel
4 like that, but she was very animated from the word go,
5 from when we got in there. She was quite annoyed, very
6 vocal. She was clearly annoyed by what was happening,
7 but certainly I didn't pick up that she was vulnerable.
8 We certainly didn't try to victimise Mrs Rashid or her
9 family."

10 And you say:

11 "I'm sorry if she felt like that. It wasn't our
12 intention to make people feel like that."

13 And I'm wondering whether, sergeant, looking back
14 now with the benefit of hindsight whether you can see
15 whether your actions and attitude that day might
16 inadvertently have made the occupants feel that way?

17 A. I don't think our attitude did. Certainly our
18 actions -- we're asking somebody to leave their property
19 that clearly don't want to leave and, again, it just
20 comes back to potentially trying to get some more
21 information from them. I honestly don't think in this
22 time now that we would have the same incident because
23 Police Scotland's sort of eight and a half years on from
24 when they were a year old so -- or whatever it was, so
25 I think we would be -- the procedures and policies and

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1 that are in place now would make things probably easier
2 to implement, I would suggest, but I don't think --
3 I honestly don't think there was anything wrong with our
4 attitude. When we got there Mrs Rashid was clearly
5 upset and very annoyed before we got there, so whatever
6 had happened beforehand I cannae really comment on that,
7 but we've done our best in a very difficult situation
8 for the family.

9 Q. In paragraph 65, if we scroll to the bottom of that
10 paragraph please, you say:

11 "If you're asked to leave your property on a Sunday
12 afternoon and you have not particularly got a lot of
13 information as to why, yes, certainly it's one to
14 reflect on."

15 And I wanted to ask have you reflected on the events
16 of 3 May 2015?

17 A. Well, obviously when I -- I was reflecting on it when
18 I provided my statement. Yes, I would have reflected on
19 it. It was a particularly difficult day for myself,
20 just in being very challenging type thing, so we reflect
21 on everything that we do and could we have done things
22 better? Of course we could. We can always improve on
23 what we're going to do, but, as I say, we had limited
24 information, we were doing our best at that time to try
25 and provide the information and persuade the family to

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1 leave. We potentially should have gotten more
2 information from them. I don't know if that information
3 was even available at that time, I've no idea, but, yes,
4 of course I've reflected on it.

5 LORD BRACADALE: Could I just ask you something, picking up
6 on that last point about information. You said that
7 Detective Constable Petrie phoned DS Dursley a couple of
8 times and updated him. What instructions came back from
9 DS Dursley?

10 A. Our instructions were just to persuade -- proceed on
11 what we were doing, that the house was to be seized and
12 that's what we done.

13 LORD BRACADALE: And are you saying that DC Petrie explained
14 to DS Dursley what was happening at the house?

15 A. I wasn't privy to the conversation, your Honour, but
16 obviously he gave -- fed back exactly what was happening
17 in the address, so I'm not clear on what was actually
18 said in the conversation because he had that
19 conversation with him, but I do know that he will have
20 told him exactly the position that we had about the
21 people that were within the address and the fact that
22 they were unwilling to leave at that stage.

23 LORD BRACADALE: And the response was?

24 A. We were still to seize the property, was what we were
25 informed.

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1 LORD BRACADALE: And what about the people in the house?

2 A. As far as I recall, we were still to persuade them to
3 leave, which we did.

4 LORD BRACADALE: Thank you. I'm sorry to have interrupted.

5 MS THOMSON: Thank you, sir.

6 I wonder whether in fact we might go to DS Dursley's
7 Inquiry statement, SBPI 00228, paragraph -- so we can
8 see here, let's just get our bearings, statement of
9 DS Graeme Dursley, noted on 26 August and 7 September of
10 last year.

11 Can we scroll down to paragraph 154 please. This is
12 in the context of a longer discussion about what was
13 happening within Mrs Rashid's family home, but
14 DS Dursley states here that there was no feedback from
15 the occupants about any difficulty and he assumed that
16 they had given their consent to seize the property.

17 And again if we can look at paragraph 131:

18 "I don't remember on that day if there were concerns
19 from the people in relation to the properties, meaning
20 the householders, effectively. I don't know if there
21 was consent recorded or not. I don't know if further
22 down the line there were warrants granted for
23 examinations that took place. I wasn't aware of anyone
24 refusing police access. Because nothing was raised to
25 me, if nothing was raised then the householders were

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1 fine with what's taking place. If there had been an
2 issue with any of the properties then it would feed back
3 to me and I'd refer that to the SIO. And we'd be
4 thinking should we be obtaining warrants. I don't
5 remember checking this with the officers on the day.
6 I don't remember checking with the officers that they
7 had permission from the householders to secure the
8 property."

9 So it seems to be DS Dursley's position that he was
10 not aware of there being any of the issues that you have
11 described in your evidence today, but it's your
12 understanding that your constable DC Petrie on one, or
13 perhaps two occasions was feeding back the difficulties
14 that he had to DS Dursley?

15 A. That's correct, yes.

16 Q. Okay. Was he making those calls within your earshot?

17 A. No. He removed himself to go and speak to him.

18 Q. So it's your understanding that he was feeding back the
19 difficulties that you were having, but you couldn't hear
20 what he said to DS Dursley?

21 A. That's correct. I would presume -- he is a very
22 professional individual, DC Petrie, so he would have
23 given a full update of what we were facing at that time.

24 Q. But, as you say, that's a presumption on your part --

25 A. It is, yes, very much so.

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1 Q. -- based on his professionalism. Because you will
2 appreciate, I think, that there's a tension between your
3 understanding of what DC Petrie was saying to DS Dursley
4 and DS Dursley's evidence that --

5 A. Yes.

6 Q. -- he didn't get to hear about any of this.

7 A. Yes, that's right. It could well be the case. There's
8 maybe been a breakdown in communication and an aspect
9 that's not been communicated, but I would be surprised
10 that that's not been fed back to be perfectly honest.

11 Q. Just give me a moment please.

12 (Pause)

13 Apologies, sergeant.

14 A. That's okay.

15 Q. I think for completeness I should also tell you what --
16 he now is a detective sergeant I believe -- Kevin Petrie
17 said in his statement. He hasn't been called to give
18 evidence, but we have an Inquiry statement from him. We
19 may not have it on our playlist, but I have a hard copy
20 in front of me and what I would like to do is simply
21 read out the relevant paragraph. Just in case, it is
22 SBPI 00295. We don't have it because I didn't
23 anticipate taking you to this, but let me read it out to
24 you and for the benefit of those behind me this is
25 paragraph 40 of his statement:

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1 "I remember at some point, I think it was myself or
2 it might have been Gordon who contacted DS Dursley. He
3 was the only one that we knew was linked to that because
4 obviously the message had come from him in relation to
5 securing that address. Just highlighting the issues
6 that we had there around the children, trying to get
7 a wee bit more information as to the reasons why we were
8 there. I can't remember specifically what we were told.
9 We were basically informed that, as part of the enquiry
10 they were involved in, the address was required to be
11 secured as there were items of evidence within that
12 address. I don't think we were told what they were. We
13 explained to them the issues around the disabled male
14 and the kids and that being there, but he basically told
15 us 'No, it needs to be secured' and that we're asking
16 them to see if they can find alternative accommodation
17 or assist them in that."

18 So does that perhaps fit more readily with the
19 evidence that you have given today, that DC Petrie had
20 gone off to make a call, or perhaps two calls, and you
21 presumed that he would be feeding back the difficulties
22 that you were experiencing with the householders?

23 A. Yes, that's correct, yes.

24 Q. So there is still a tension perhaps between your
25 evidence and DC Petrie's and that of DS Dursley but that

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1 will be a matter for the Chair to resolve and not
2 something that needs to detain you today.

3 I think you had reached the point in your evidence,
4 sergeant, where you have explained the difficulties that
5 you have had with the householders, Mrs Rashid's father
6 had arrived, the brother had come to the door, and you
7 said that the family members were on the point of
8 leaving, they were getting ready to leave.

9 A. Yes.

10 Q. And I wanted to ask some questions about them leaving.
11 Mrs Rashid in her oral evidence to the Inquiry -- this
12 was on 8 February -- said that she felt rushed and
13 pushed and forced and in panic mode to the point that
14 things were left behind. Do you have any comment to
15 make on that?

16 A. I wasn't aware that she felt that way to be honest. We
17 had been there for a while and we did encourage them to
18 make sure they took everything with them because again
19 going back to the integrity of the scene, it's difficult
20 to come back. But no, I cannae really comment on that.
21 I wasn't aware she felt rushed. I know she talked about
22 going back -- I think she resides in Glasgow and had
23 come through to be with her mum and she had certainly
24 indicated that she was going to go back to Glasgow with
25 the kids at that stage.

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1 Q. She gave evidence that she was nursing her baby and she
2 left behind breast pumps, expressed milk and medication
3 because of the sense of being rushed out of the house.
4 Do you have any comment to make on that?

5 A. No, not at all. I mean obviously we want to make sure
6 everybody's got as much time as they need, you know,
7 when they're leaving. We certainly weren't forcing the
8 fact for them to leave, but again, it was an emotive
9 situation. They were begrudgingly leaving the property,
10 so it stands to reason that she maybe forgot stuff when
11 she was going.

12 Q. She said in her evidence:

13 "Answer: They didn't care, they just said we weren't
14 allowed back in the house and we weren't allowed to
15 touch anything."

16 She was asked:

17 "Question: Did you tell them what things you
18 needed?"

19 And she said:

20 "Answer: Yes."

21 She was asked:

22 "Question: did they offer to go and get things for
23 you?"

24 And she said?

25 "Answer: Nothing."

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1 Would you like to comment on that?

2 A. I'm not aware of that at all, of her asking to get back
3 into the address or anything like that.

4 Q. So you don't recall her asking, or she didn't ask?

5 A. She didn't ask me anyway.

6 Q. What would you have done if she had asked you?

7 A. If she was looking for medication and expressed milk,
8 did you say?

9 Q. Yes.

10 A. We would have gotten an officer to go and get that for
11 her. That would have been, you know, on the crime scene
12 log, somebody would have entered the property probably
13 with her because it's her own stuff, but it wouldn't
14 have affected the scene in any way. She has been within
15 there, so somebody would have gone with her to make sure
16 she could get those items.

17 MS THOMSON: Sir, I'm conscious that it's 1 o'clock.

18 LORD BRACADALE: Yes, well, we will stop and sit again at
19 2 o'clock.

20 (1.01 pm)

21 (The luncheon adjournment)

22 (2.00 pm)

23 LORD BRACADALE: Ms Thomson.

24 MS THOMSON: Can we bring up your Inquiry statement again
25 please, sergeant, and can we look at paragraph 53, we

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1 have looked at this before.

2 The last sentence:

3 "Usually you would be briefed about something like
4 that but because we had just come in to assist, that's
5 where we were."

6 Can I just be clear, when you went to Mrs Rashid's
7 family home had you had a briefing or had you only
8 received the information that had been passed over
9 radio?

10 A. The latter. What we knew was that previously an
11 incident had happened in Kirkcaldy but we didn't have
12 any briefing. As far as I recall, I heard the radio
13 message about people being within and seeking advice --
14 I'm sure we phoned down to the sergeant, because our CID
15 office was a floor up, I'm sure we phoned down to say,
16 "Look, we're going to go along and assist", but there
17 was no sort of briefing. We weren't part of the sort of
18 ongoing investigation.

19 Q. Given the difficulties that you encountered when you got
20 there that you have told us about, might it have been
21 helpful if you had had a briefing?

22 A. Yes, definitely, but it was a fluid situation.
23 Everything was happening.

24 Q. What sort of information might you have got at
25 a briefing that would have helped you when you got to

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1 the house?

2 A. It's difficult to say, but going back to what was
3 mentioned, I don't know if they knew at that time if it
4 was clothing that we were looking for or anything like
5 that. If we had had that information at the time, that
6 would have been useful because potentially we could have
7 managed to obtain items that they were looking for,
8 seize them and then that way if the evidence is seized
9 and they weren't looking for anything else, potentially
10 they could have had the householders remain in the
11 house.

12 Q. And if it hadn't been known at that point in time what
13 the evidential value of the house might have been, would
14 it still have helped you to have known a little bit more
15 about the circumstances of the incident involving
16 Sheku Bayoh and the connection to the -- to Mrs Rashid's
17 house?

18 A. Potentially, yes, because we're there trying to explain
19 to the family, you know, why we're needing to seize this
20 property, why they're looking to search it, and if we
21 had known that side had been involved in an altercation,
22 if you like, directly before that -- again, I don't know
23 if they were aware of that at that time -- we would have
24 been able to furnish the family that information and it
25 would clearly sort of show more of a justification for

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1 our actions, if you like.

2 Q. Thank you. I want to move on now to ask you some
3 questions about the needs of the different occupants,
4 the different householders at the property, and I wonder
5 if I can ask you to turn to paragraph 43 of your
6 statement. I want to begin with some questions about
7 religion and culture and language. At 43 you say:

8 "Her mother was asking her questions, and Mrs Rashid
9 was translating to her mother backwards and forwards,
10 and we made sure that she was happy, that she was
11 understanding what was happening. I remember her
12 telling us that her mother didn't speak any English. We
13 made sure we didn't interrupt her or anything like that.
14 We gave her sufficient time to ask questions to
15 Mrs Rashid, and Mrs Rashid asked DC Petrie and myself.
16 I tried to explain it, and then DC Petrie tried to
17 explain it, and that's the way it went. We furnished
18 her with all the information that we had."

19 So you say, "I remember her telling us that her
20 mother didn't speak any English". Did you consider
21 getting an interpreter?

22 A. No, I didn't, not at that stage. Mrs Rashid was asking
23 us questions and asking her mother questions and
24 interpreting backwards and forwards, so no, I didn't.

25 Q. Okay. And why not?

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1 A. I didn't think there was a need to, to be honest. It
2 was her daughter that was interpreting for her, so
3 I presumed that would have been more than adequate and
4 probably easier for her mum speaking to somebody that
5 she knows.

6 Q. Now, in a situation like this where the person in the
7 family who speaks English is trying to absorb
8 information, make sense of that information, they're
9 annoyed, they're asking questions, they're upset by
10 what's going on, is it best practice to expect them to
11 translate for family members too?

12 A. I don't know about best practice. I mean that's --
13 I don't think particularly I would have done anything
14 different as far as that goes. I mean, certainly if it
15 wasn't witnesses we were dealing with, you know, and
16 they were suspects or anything like that, of course we
17 would be using interpreters or people that are
18 completely independent from the situation, but as far as
19 I was concerned at the time and at this moment in time
20 on reflection I think it was probably best to have her
21 daughter to do that.

22 Q. That's your assessment of the situation but did you ask
23 Mrs Rashid? Did you ask her --

24 A. No.

25 Q. -- "Are you happy to translate or would you rather we

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1 brought in an interpreter?"

2 A. No, I didn't.

3 Q. Looking back, might you do that differently next time?

4 A. Yes, by all means, yes. I maybe should have asked that
5 question, but it wasn't something I considered and
6 I certainly didn't ask the question.

7 Q. All right. When Mrs Rashid gave evidence she said that
8 she was in her pyjamas. Do you recall her being in
9 pyjamas?

10 A. I don't know, to be honest. I don't recall what she was
11 wearing.

12 Q. There was also evidence that she was wearing the hijab.
13 Do you remember that?

14 A. Yes.

15 Q. Can I share with you the evidence from Constable Fraser,
16 this was on 28 August. He referred to the women -- that
17 would be Mrs Rashid and her mother -- wearing
18 traditional cultural clothing and he was asked to
19 describe that clothing.

20 And he said:

21 "Answer: Colourful long dresses and colourful
22 head -- it wasn't a hat. It was wraps or something on
23 the head."

24 And he confirmed that both women had their heads
25 covered. Does that fit with your recollection too?

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- 1 A. As far as I recall, yes, that's correct.
- 2 Q. And did you associate the clothes that Mrs Rashid and
3 her mother were wearing with any particular ethnicity,
4 culture or religion?
- 5 A. I presumed they were Muslim, just from the clothing.
- 6 Q. So it crossed your mind that this could be the home of
7 a Muslim family?
- 8 A. Yes, yes.
- 9 Q. And did you ask?
- 10 A. No, I didn't.
- 11 Q. Were you aware of any matters you should be sensitive to
12 when entering the home of a Muslim family?
- 13 A. No, not at that time.
- 14 Q. Not at that time, perhaps since?
- 15 A. Well, since -- I have probably learned more about the
16 Muslim faith through Scouting than I ever done through
17 the police, so in my spare time I run a group, I have
18 taken Cubs and Scouts to a mosque and met with them and
19 been to evening prayers and such-like, so I have
20 probably got a better understanding of their faith now
21 than I did at that time.
- 22 Q. So through the Scouts you have had a visit to a mosque?
- 23 A. Several, yes.
- 24 Q. Several. You have attended prayers and you feel you
25 have learned more through that than you have through

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1 your training with the police?

2 A. Well, I knew at that -- I knew from going there,
3 I didn't know at the time, that females weren't aware in
4 the main prayer room because I asked that the Cubs and
5 Scouts, the female ones that were going, if they would
6 consider wearing a headscarf, although they weren't
7 admitting them, and I know the main mosque in Dundee,
8 the prayer room for females is upstairs, so yes.

9 Q. And through the training that you have had with
10 the police have you ever had the opportunity to visit
11 a mosque?

12 A. No, no.

13 Q. Were you aware at the time that a Muslim family might
14 prefer visitors to take their shoes off before coming
15 into the house?

16 A. No, not at that time, no. But again, I'm aware of that
17 with visiting the mosque. To be fair, I probably would
18 have known that through our diversity training, but it
19 wasn't something that I considered, if you like, at that
20 time.

21 Q. So can we take it that you didn't take your shoes off?

22 A. No, I didn't, no.

23 Q. Were you aware at that time that Muslim women might feel
24 uncomfortable in male company?

25 A. No, I didn't.

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1 Q. Is that something that you know about now; have you
2 learned about that through your visit to the mosque?

3 A. Yes. Like I say, unfortunately the only male in the
4 household at that time was Abid, so he couldn't hold
5 a conversation too long type thing, so -- otherwise we
6 would have probably sought out somebody. But I know her
7 father come along and obviously when he arrived we dealt
8 with him as the head of the household, if you like.

9 Q. And Constable Aitken of course was a lady officer. She
10 was outside. Was any consideration given to asking her
11 to come in?

12 A. Not by myself, no.

13 Q. Can we look at paragraph 66 of your statement please:

14 "I have been referred to paragraph 42 ... of
15 Mrs Rashid's statement, in which she states that the
16 officers who attended [redacted] 'were uncaring and
17 I felt almost like we were being treated differently
18 because we were Pakistani and Muslims'. I am asked for
19 my reaction to Mrs Rashid's description. They certainly
20 weren't getting treated different because she was
21 Pakistani and Muslim. We treat everybody in the same
22 manner. We certainly weren't trying to be uncaring, far
23 from it, but I could understand how she would maybe
24 think we were uncaring on the aspect of getting asked to
25 leave their house and she's got a child that's just been

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1 out of hospital and stuff like that. It's far from
2 ideal, but certainly we weren't trying to be uncaring,
3 and we certainly didn't treat anybody differently for
4 being Pakistani and Muslim."

5 So you say that you treat everybody the same and you
6 didn't treat anybody differently for being Pakistani and
7 Muslim. Does treating people equally mean treating them
8 the same?

9 A. Yes.

10 Q. Can you see that perhaps it might be better to tailor
11 the treatment of each individual to their unique needs?

12 A. Yes, yes, in that case obviously, as I have said, I know
13 more about the Muslim religion now than I did then, so
14 yes, in that aspect probably the knowledge I've got now
15 I would have been in a better position to treat
16 Mrs Rashid differently.

17 Q. So treating people equally might actually involve
18 treating them differently --

19 A. Yes.

20 Q. -- and not taking a one-size-fits-all approach?

21 A. Yes. I think what I mean by equally is we treat
22 everybody fairly type thing, we don't treat anybody
23 differently because of their religion, although we
24 would, if you know what I mean.

25 Q. I'm not sure I do know what you mean. Can you explain?

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1 A. Well, Mrs Rashid, I was asked to comment on that she was
2 treated differently because she was Pakistani and Muslim
3 and that's what I was trying to explain in that
4 paragraph, that we treat everybody with fairness and
5 respect type thing, but as you have pointed out, maybe
6 should have treated her for her religious needs better,
7 type thing.

8 Q. Can we look at paragraph 116. You say:

9 "I am asked if I recall whether I had had any
10 training that would have included content on interacting
11 with a witness who was Muslim, in particular a female
12 Muslim. Yes, we would have had something along those
13 lines. It's quite difficult to say."

14 And at paragraph 117:

15 "When I first started in the police in '99, there
16 wasn't the same knowledge of that but certainly, we've
17 got a far better understanding of religions, but as far
18 as training goes, I have probably got a better
19 understanding through my own interactions with the
20 Muslim faith. So, yes, I don't think there's anything
21 specific about a Muslim female witness, I would have to
22 say. Maybe there is, but I don't recall it."

23 And you reference there getting a better
24 understanding through your own interactions with the
25 Muslim faith. Is that a reference to what you have done

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1 with the Scouts in terms of taking Scouts and Cubs along
2 to the mosque and --

3 A. Yes, there's a particular badge activity they do called
4 "Our faith", where they have to learn about a different
5 faith, so predominantly where I reside they are all sort
6 of Protestant, some Catholics type thing, so we have
7 reached out to the largest mosque nearby to go and learn
8 from them. In turn they have sent some literature, some
9 short cartoons for the kids to watch before they go and
10 then we go down, visit them, go to the evening prayers.
11 They're very good. They're in -- in the washrooms prior
12 to doing it before I ken where I was, they all had their
13 shoes -- well, they had their shoes off anyway, they had
14 their socks off and were washing their feet and taking
15 part and all the rest of it and then they go in to the
16 evening prayers and we speak with the imam. He arranges
17 for some of the youths to come along and recite some of
18 the Qur'an actually, which is quite incredible because
19 they have to learn it verbatim which is no tall order
20 that's for sure.

21 Q. What's your role within the Scouts?

22 A. I'm the group Scout leader in the area I'm in.

23 Q. How long have you been doing that?

24 A. Too long. I was a Cub leader then a Scout leader and
25 now I'm the group Scout leader, so we've got Beavers,

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- 1 Cubs and Scouts, so probably 60-odd kids in our group.
- 2 Q. How long have you been taking the children from your
3 group to the mosque for these visits for their badge?
- 4 A. Probably the last six or seven years, somewhere along
5 those lines. The way the programme works, it sort of
6 repeats itself every couple of years. I know the first
7 year we done it -- I have been doing it for ten years.
8 The first year we have done it we had a new minister in
9 the area so we just went to our own local church type
10 thing, but after that we sort of reached out and I think
11 I have been down three times now with Cubs and Scouts.
- 12 Q. Okay, and as at 3 May 2015 had you had that opportunity,
13 or has this badge work with the Scouts post-dated 2015?
- 14 A. No, I hadn't, not at that stage, no.
- 15 Q. Do you think it might have helped you on 3 May 2015 if
16 you had had that opportunity to go to a mosque, to meet
17 the imam, to attend evening prayers?
- 18 A. Yes, definitely. I mean, my previous understanding on
19 the faith was it was quite a very strict faith type
20 thing but I was quite surprised when everybody was
21 coming in for their evening prayers they were switching
22 their mobile phones off as they come along and I was
23 reflecting on if I had been at my -- not that I'm
24 a churchgoer but if I had been at my own church the tuts
25 that you would have gotten from the congregation

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1 upstairs for doing things like that. But no,
2 certainly -- it was certainly beneficial to know and it
3 probably would have assisted me.

4 Q. Looking to the future, do you think that sort of
5 opportunity is the sort of thing that might benefit
6 officers to receive as part of their equality and
7 diversity training?

8 A. Potentially, yes. Again, it depends what areas you're
9 working in. For instance, when I was stationed in
10 Dundee obviously I think there are six or seven mosques
11 in Dundee, so whilst I was there -- and this is post
12 obviously this incident -- I have had occasions to go to
13 the mosques anyway and meet with leaders and community
14 leaders and along those lines, but previous to that
15 I hadn't -- there wasn't a -- when I joined I was in the
16 Northeast Fife area, there's no mosques in that area
17 and -- there was one in Kirkcaldy that was under
18 construction, I think at that time. I don't know if
19 it's finished as yet, so it would depend really on an
20 individual, I would suggest.

21 Q. As at 2015 what equality and diversity training had you
22 had?

23 A. We had training -- I joined in '99 and I think it was
24 about 2001 we had quite an input on diversity training
25 that came in at that time. My understanding is it was

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1 either -- it was two or three days' worth of inputs that
2 we went to and I think it was everybody was getting
3 their diversity training at that time. My understanding
4 is now when you join the force you would get something
5 like that at Tulliallan as part of your basic training,
6 but certainly at that stage in my career that's when we
7 got the initial training, it was a couple of years into
8 it.

9 Q. So that was around about 2000, or the early 2000s --

10 A. 2001, yes.

11 Q. -- two or three days of training and was there an input
12 on the Muslim faith?

13 A. I think there was, yes. We had people that had come in
14 from LGBTI and various other sort of workshops and
15 things like that that had come in, but I can't honestly
16 remember who or when they came in. As I said, it was
17 a few years ago now.

18 Q. It was a few years ago and between 2000/2001 and 2015
19 did you have any more equality diversity-type training?

20 A. Yeah, we usually have a -- whatever happens we've got
21 a Moodle platform, which was on sort of computer
22 training-type thing things that we do, so I'm sure there
23 would have been diversity refreshers or something like
24 that along those lines. I couldn't actually say what
25 and when, but it would be down on our training records,

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1 which are electronic, what's done and when and there
2 tends to be refreshers. I don't know if there has been
3 a refresher on diversity or not.

4 Q. Okay. Have you had any training on unconscious bias?

5 A. Not at that time. It's mentioned now in officer safety
6 training when we undertake that. We do that, COVID out
7 the way, but on a yearly basis we undertake it and it's
8 sort of mentioned at that time -- well, to the extent of
9 restraining people is what I'm meaning.

10 Q. So unconscious bias in the context of officer safety
11 training?

12 A. I don't think so, no. I don't think there's anything --

13 Q. No, sorry, I perhaps misunderstood. I thought you were
14 saying it was part of the annual OST refresher.

15 A. Yes, sorry, that's me that's mistaken. I don't recall,
16 to be honest, whether that's in it or not now.

17 Q. All right. We have spoken about Mrs Rashid and her
18 mother and their religious or cultural needs. I want to
19 ask you some questions now about Mrs Rashid's brother,
20 who of course was disabled.

21 A. Mm-hm.

22 Q. Can we look at paragraph 45 of your statement please.

23 A. Sorry, sorry to jump in, but the unconscious bias, that
24 was my mistake. We have had Moodle training on that.

25 Q. On unconscious bias?

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1 A. Yes, I'm sure we have, yes.

2 Q. How recently?

3 A. Well, it will be within the last two or three years. We
4 get a sort of deluge of packages that we need to do, but
5 I'm sure there's been training and I'm going to guess
6 within the past year/18 months, somewhere along that
7 lines.

8 Q. And through that training have you been able to identify
9 any biases that you perhaps yourself held unconsciously?

10 A. Not through the training, but I think everybody's aware
11 of -- everybody's got biases one way or another, but not
12 through the training, no.

13 Q. Okay. Let's look at paragraph 45 now:

14 "I had that conversation with Mrs Rashid, and then
15 DC Petrie tried to explain to her as well, and then
16 Mrs Rashid then phoned her father, I believe, because
17 she needed his assistance to help move ..."

18 I think that's her brother's name, it has been
19 redacted:

20 "... I think that's who she was phoning; he was
21 going to come through because he had the transport. We
22 did ask about that as well, if they were needing
23 transport for [him] but I think she said that her father
24 had a wheelchair accessible vehicle for transporting
25 [him] so he was coming."

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1 And if we could also look at paragraph 54 please:

2 "The father was animated and quite rightly so. He
3 talked about the needs for ..."

4 Again, I think the son's name has been redacted
5 here:

6 "... and he was quite clear that he would have to
7 get back into the house by ten o'clock that night
8 because the house was especially adapted for [his]
9 needs, and that's what we were working towards as that
10 was [his] bedtime."

11 So we see from these two paragraphs read together
12 that you were aware that Mrs Rashid's brother was
13 disabled and was in a wheelchair and you were also aware
14 that the house was specially adapted for his needs. Did
15 you see any aids or equipment? You have mentioned
16 a ramp and a special toilet that he was using
17 frequently?

18 A. I wasn't through -- I had seen the ramp because I was
19 beside it but because he was in a chair and they said
20 that he was going to use the bathroom, it was quite
21 clear that he would have a specially adapted bathroom
22 for him.

23 Q. We have heard evidence that he had a special bed. Did
24 you know about that?

25 A. No, but again I would have presumed that he would have

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1 had some form of assisted bed for helping him in and
2 out.

3 Q. We have heard there was also a hoist to help him in and
4 out of the bed. That doesn't surprise you?

5 A. No, no, not at all.

6 Q. And you mentioned having seen the ramp that led from the
7 living area --

8 A. Yes.

9 Q. -- to the bathroom. At paragraph 55 you say:

10 "I think Mr Ahmed maybe mentioned about the carers
11 coming in at the time."

12 So you were also aware that Mrs Rashid's brother had
13 carers who came in?

14 A. Yes.

15 Q. And at paragraph 55, at the bottom of the page, there
16 you recall saying to Mr Ahmed in respect of getting
17 access to the house prior to 10 o'clock:

18 "We can't promise you that, but we can promise you
19 that we will do everything we can to try and make that
20 happen."

21 What did you understand the difficulty to be if
22 Mrs Rashid's brother couldn't get back into his own
23 house by 10 o'clock that evening?

24 A. Well, apart from the fact that that's his own
25 environment and everybody is happier in their own

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1 environment, the issue was ensuring that was the time he
2 usually retired to his bed and carers would come in --
3 I think it was just after 10, if I recall correctly, to
4 assist him with getting him down to his bed for the
5 evening. So it was clear that Mr Ahmed was -- that was
6 his main concern at that time. He had agreed to leave
7 the property but he wanted to ensure that he could get
8 back into the property for Abid, so that's what we were
9 certainly trying to make happen.

10 Q. Let me ask you some questions about Mrs Rashid's
11 children. I don't think you saw the children at any
12 time?

13 A. No.

14 Q. Do you know how old they were?

15 A. No. I think one was a toddler and I know there was one
16 was only a couple of months old, or three months old or
17 something. It was an infant anyway.

18 Q. Mrs Rashid said they were 18 months and two months.

19 A. Yes, yes.

20 Q. Okay. Were you aware that that the baby had had an
21 operation and was recuperating?

22 A. Yes, that was mentioned, I think by -- Mrs Rashid told
23 us that, yes.

24 Q. Were you aware that Mrs Rashid was also recuperating,
25 that she had had an emergency C-section?

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1 A. I don't think so, no.

2 Q. Can we look at paragraph 49 please. This is the part in
3 your statement when you explain that the family were
4 making their preparations to leave the home:

5 "There was a period of time ... it must have been
6 half an hour or something: we were waiting and
7 Mrs Rashid was away getting ready, getting the kids
8 ready. I never actually seen the kids. I can't recall
9 where they were, but she was away getting changed,
10 I think, and getting her stuff together. I remember, on
11 a couple of occasions at least, we had said to the
12 occupants to remember that they had everything that they
13 needed because they wouldn't get access to the house
14 again once they had left."

15 And then at paragraph 50:

16 "When you're trying to secure a property, it is
17 difficult because obviously they've got a right to
18 privacy, and you don't want to be looking at stuff that
19 they're taking away with them, but again, you're mindful
20 of 'are they taking away any evidence or anything like
21 that?' We were as respectful as we could be without
22 being intrusive or anything like that, but it's quite
23 common practice, if somebody is packing a bag or
24 something, that somebody observes exactly what they have
25 taken out of the house in case there is something of

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1 potentially evidential value. As I said, it was far
2 from ideal."

3 So you're explaining here that what you were trying
4 to do was balance privacy with making sure that evidence
5 wasn't interfered with or removed from the house, and
6 again would it have assisted you in that exercise if you
7 had known what evidence officers might ultimately be
8 looking to recover from the house?

9 A. Yes, I would think so, yes, because I think I'm probably
10 thinking at that time is it drugs we're looking for or
11 that, so yes.

12 Q. You say that you were watching the occupants to make
13 sure they weren't taking away any evidence. What
14 authority did you have to do that, to watch them in
15 their own homes as they packed their bags?

16 A. I wasn't watching them pack their bags. I think she was
17 upstairs, but again I think I'm talking in general terms
18 about that, but certainly I believe Mrs Rashid went
19 upstairs to get ready and pack her stuff, so I wasn't up
20 there while she was doing that and, as I say, I'm
21 talking more generally, if we were -- if we had seized
22 the house and somebody was taking stuff from within.

23 Q. Okay. Explain how you were respectful -- you say in
24 your statement:

25 "We were as respectful as we could be without being

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1 intrusive."

2 How were you respectful?

3 A. Just by the way we were acting, how we were speaking,
4 tone of voice, body language, everything like that. As
5 I said, straight off the bat we had gone into that
6 situation and I'm expecting a complaint to come in, so
7 I'm very mindful about what we're saying, how we're
8 acting and what we're doing because, as I said --
9 I mean, you know, when you have been a police officer,
10 you know when people are going to complain and, as
11 I say, she quite clearly was upset, so we were expecting
12 a complaint, so we're trying to be as respectful, be as
13 careful with our terminology and things like that, not
14 to seem threatening or abrupt, as she said that we were,
15 or anything like that.

16 Q. And how did you avoid being intrusive?

17 A. By giving her her privacy that she needed, so she went
18 away upstairs to pack and get ready to leave. This was
19 after her father come through. We had a conversation
20 which was similar to Mrs Rashid's about, you know,
21 warrants and things like that and then, as I said, he
22 agreed that they were going to leave the property and
23 then we had this conversation about trying to get Abid
24 back into the property for 10 o'clock.

25 Q. I would like to read you a short extract from

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1 Mrs Rashid's evidence, her oral evidence, and then
2 I will invite your comment on it. So she said in her
3 written statement that she asked an officer to let her
4 have privacy and she was asked to explain what she meant
5 by that and she said:

6 "Answer: I was in my pyjamas, so I wanted to change
7 because I didn't want to leave the house with my pyjamas
8 on. And I wear hijab, so I didn't want him to be there.
9 So I needed some privacy, privacy to change my clothes
10 and get my children ready.

11 "Question: Was the officer willing to give you some
12 privacy?

13 "Answer: He did at that point, yes.

14 "Question: And were you able to change in one of the
15 rooms in private?

16 "Answer: Yes.

17 "Question: What did the officer do when you were
18 left in the room in private to get changed?

19 "Answer: He stood outside the room.

20 "Question: Did he ask you if that was okay; did he
21 ask for your permission to do that?

22 "Answer: To stand outside the room? He didn't ask
23 for my permission. I had to ask him."

24 She was then asked:

25 "Question: How did you feel having an officer

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1 standing outside your room?

2 "Answer: Terrified, scared.

3 "Question: And it was a male police officer?

4 "Answer: Yes."

5 Do you recognise her description of her experience
6 of getting changed and getting packed to go?

7 A. No, not particularly. I believe she went upstairs to
8 get changed. I was never upstairs, so I don't recall
9 that.

10 Q. Her evidence was that a male officer stood outside the
11 room as she changed. Were you aware -- I think you said
12 earlier in your evidence that to the best of your
13 knowledge neither of your male colleagues who were in
14 the house with you went upstairs?

15 A. That's right, yeah. No, no, I'm not aware of that at
16 all.

17 Q. Is it possible one went upstairs and you simply weren't
18 aware?

19 A. It's possible, yes.

20 Q. But your evidence is that you didn't go upstairs?

21 A. That's right, yes. I went out to move the car.

22 Q. Okay. In her oral evidence Mrs Rashid was asked how
23 things might have played out differently and she said:

24 "Answer: By them caring about our situation, being
25 a bit more compassionate towards us about my brother's

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1 situation, understanding what we were all going through,
2 but they didn't care about anything at all."

3 She said she was made to feel like a second class
4 citizen and the impact of this was that she didn't feel
5 safe around the police any more, didn't feel safe in her
6 own home any more.

7 Can I invite your comment on that evidence?

8 A. Well, first of all I'm sorry if she felt like that, that
9 certainly wasn't anybody's intention. Yes, I -- I don't
10 know what to say. I'm sorry she felt that way, but we
11 certainly weren't really aware of it.

12 Q. Mrs Rashid in her Inquiry statement -- I don't think we
13 need to bring this up but for reference it's at
14 paragraph 11 -- said:

15 "I remember saying we didn't have anywhere to go and
16 asking if they could search the house whilst we stayed
17 in one room. They said we couldn't do that and whether
18 we went to a hotel or a relative's house was up to us."

19 Do you recall that conversation?

20 A. Something similar to that. I mean, I know -- I know
21 that it was fed back to DS Dursley about them being
22 within the house and it come back and we were told that
23 that wasn't the case, we were going to have to encourage
24 them to leave the address.

25 Q. Do you remember the suggestion being made that the

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1 family could stay in one room? Do you recall Mrs Rashid
2 asking if that was possible?

3 A. I don't, I don't. I think I was asked that in my
4 statement and to be honest I don't think it's
5 something -- well, again, going back, if we knew what
6 they were looking for within the address it would have
7 been helpful, but again it's -- it would have been quite
8 difficult to do and manage because it's the time taken
9 to potentially come and search the address, again trying
10 to keep control of that situation and asking people to
11 stay within the living room when you've got a gentleman
12 with special needs, you've got two young kids in the
13 house and -- but no, I don't recall that being asked at
14 all.

15 Q. Mr Ahmed, in his Inquiry statement -- again, we don't
16 need to bring it up but the reference is SBPI 249 at
17 paragraph 9 -- he said that he asked, "Can we stay in
18 the sitting room? That's the only room we will use, the
19 kitchen and the sitting room and the toilet next to it",
20 but you don't recall anyone asking you whether that was
21 possible?

22 A. I don't recall that. I'm not saying it wasn't asked,
23 but I don't recall that. I think it was more along the
24 lines that we had been informed that, you know,
25 everybody had to leave the address.

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1 Q. And aside from you having had this instruction, you say
2 from DS Dursley, that everyone was to leave, leaving to
3 that one side, was there any reason why the family
4 couldn't be kept within one area of the house whilst the
5 search took place in the other rooms of the house?

6 A. It would be difficult to manage, but I think at the time
7 I would have to say no, that that decision wouldn't --
8 but in hindsight potentially they could have, if they
9 knew what they were -- what the locus was getting taken
10 for, what we were looking for, there could have been
11 potentially -- and again, this is just my perception,
12 that there could have been the potential to seize the
13 clothing if they had known at that time that's what
14 they're looking for, and then we could have managed the
15 scene, if you like, by everybody staying in the one area
16 in case anything else sort of come up during the
17 investigation.

18 Q. Because if the family had been able to stay at home then
19 it would have meant that Mrs Rashid's brother would have
20 had access to the aids and the equipment, the special
21 bed, the hoist, the adapted bathroom and so on. He
22 wouldn't have had to be taken from a familiar
23 environment and he would have been there when the carers
24 arrived later that evening.

25 A. Mm-hm.

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1 Q. So I'm just keen to understand what the barriers were to
2 that particular course of action.

3 A. As I said, we were told that -- as far as I'm aware, the
4 question was asked when it was fed back to the DS and we
5 were instructed that they had to leave the property.
6 So, as I say, that's what we were doing.

7 Q. And you say that instruction came from DS Dursley?

8 A. Yes. As I said, it was DC Petrie that had the
9 conversation with -- but, as far as I'm aware, that's
10 what we were informed, yes.

11 Q. When Pat Campbell, the SIO, gave his evidence, he said
12 that keeping the family in one area would have been
13 a reasonable suggestion, a judgment call. He said:

14 "Answer: I think we probably could have controlled
15 it a bit better with putting the family into one part of
16 the house, maybe under some sort of controlled measure
17 with a police officer maybe present with them, for
18 example, and carried out the search of the remaining
19 part of the house. That may have been an option."

20 Looking back, would you agree that that potentially
21 was an option? I appreciate your understanding was that
22 the Duty Sergeant had said everyone was to leave the
23 house, but leaving that instruction to one side, is it
24 something that you consider would have been a viable
25 option with hindsight?

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1 A. Yes, definitely, and especially under the circumstances,
2 as you have pointed out, with him being in a chair and
3 being within his own environment. Yeah, definitely.

4 Q. And if a situation like this arose tomorrow, is it
5 something you might think about doing?

6 A. Yeah, without a shadow of a doubt, yeah.

7 Q. And if the DS was telling you, "No, no, I want everybody
8 out the house", what would you do?

9 A. Well, I would be ensuring that all the information was
10 relayed back to the pertinent people to ensure that the
11 correct decision was getting made.

12 Q. Okay. What time did the family leave the house?

13 A. Probably at the time just when we left. I went out just
14 prior to -- I know DC Petrie made contact again because
15 the car was sitting in the driveway, that had travelled
16 back and they weren't sure if that was connected as
17 well. So it was sitting in the driveway which was
18 blocking Mrs Rashid's car, and at the back, so I went
19 out to move that vehicle and we opened up a brown
20 production bag and got gloved up and that so I could
21 move the car out, wait for her to leave and then I could
22 return the car into situ, and then we took the bag and
23 the gloves and stuff like that as productions, just in
24 case we were interfering with anything that was
25 pertinent to the enquiry.

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- 1 Q. If we can look briefly at the scene entry log please.
2 That was PS18504. Thank you. And if we can turn to
3 what I think is page 7 of the PDF. Thank you. So we
4 see a record there of Mr Ahmed arriving at the property
5 at 2 o'clock in the afternoon to assist in moving his
6 son and there's a record of the places within the house
7 where he went while he was within the house and then
8 a little bit down we see at 1309 hours Mrs Rashid "In
9 locus on police arrival", and again there's a record of
10 the areas within the house where she was. As far as
11 I can see, the scene entry log doesn't, I think, record
12 the time that they left the property. Do you know why
13 that might be?
- 14 A. I don't know, to be honest. That's -- so that's the
15 information that's happened obviously prior to the log
16 happening, so the officers are putting that in, in the
17 (inaudible) to describe what's happened prior to the
18 scene log being implemented, if that makes sense.
- 19 Q. Okay, so it has maybe been a retrospective entry?
- 20 A. Yes, that's exactly what it is. It actually says it at
21 the top, so it's, "Persons known to access to the scene
22 prior to commencement of the log".
- 23 Q. So it does, you're absolutely right. But what this
24 doesn't appear to record is the time that the family
25 left the property?

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1 A. No, no.

2 Q. And we know that you left at 1445 hours along with
3 DC Petrie. Did the family leave before or after you, or
4 at the same time?

5 A. They left just prior to us. As I said, I moved the
6 vehicle to allow them out. I think I was maybe sitting
7 in the car -- I made sure it started and I just sat
8 there, waited until she had come out to her car and then
9 I reversed it out so they could get out and then I put
10 the car back in then and we just bagged the stuff we had
11 and left at that stage.

12 Q. Can we go back to your statement please to paragraph 55.
13 We have looked at this already and if we look at the
14 very bottom of that page this is a conversation that you
15 were having with Mr Ahmed:

16 "I remember I said to him, in respect of getting
17 access back to the house prior to ten o'clock: 'We can't
18 promise you that, but we can promise you that we'll do
19 everything we can to try and make that happen' ..."

20 So I would like you to help me understand what you
21 did to try and make that happen after you left the
22 family's home at about quarter to 3 in the afternoon?

23 A. Well, obviously we have made contact and informed our
24 supervisors of, you know, what's happening there. We
25 have made them aware of the need to get Abid back in to

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1 the property for 10 o'clock and the question was asked
2 to see if they could fast-track that locus because
3 obviously there were several loci about, so they were
4 trying to make sure that one would be prioritised so
5 a search could be done and we could get Abid back into
6 the address.

7 Q. So who was trying to fast-track the locus?

8 A. That would have been them in charge of the enquiry. It
9 would have been -- DS Dursley would have been informed
10 of that information and I would presume he would have
11 fed it back into the SIO.

12 Q. Okay. Let me read to you a small extract from the
13 evidence -- the oral evidence of the SIO, Pat Campbell.
14 He was told about the needs of Mrs Rashid's disabled
15 brother and the whole family circumstances, Mrs Rashid
16 had had surgery, as had the baby and so on, and he said:

17 "Answer: If I had had the information that you're
18 now detailing, I think it's just common sense that we
19 would have moved to a fast-track process for this and
20 tried to move resources around to facilitate it. But,
21 as I say, I wasn't aware of that information at that
22 time."

23 So certainly the SIO has given evidence before the
24 Inquiry that he wasn't aware of all of this information
25 and the concern about the 10 o'clock deadline, but is it

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1 your evidence that you passed that information up the
2 way --

3 A. Mm-hm.

4 Q. -- so to speak?

5 A. Yes.

6 Q. Did you do that yourself or was it DC Petrie who passed
7 the information up?

8 A. I cannae remember if I spoke to Durs at all. I have
9 certainly spoken to him since then, but I don't know at
10 that time. I know I went back to the office and we made
11 several phone calls and that information was
12 disseminated back, so they were quite clear of the
13 situation that was there, so I don't know. I cannae
14 comment on that to be honest. I don't know how they
15 wouldn't know that because my understanding is that the
16 locus was fast-tracked. Maybe I've gotten that wrong.
17 So if they didn't know about that information, why was
18 it fast-tracked?

19 Q. You explain in your Inquiry statement that you also --
20 and this was perhaps by way of a plan B -- tried to find
21 alternative accommodation for the family and you
22 explain -- and we don't need to go to it but the
23 reference is paragraph 102 -- that you spoke to an
24 emergency social worker but that on a Sunday morning no
25 housing was available and they suggested that you call

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1 the Victoria Hospital.

2 A. Yes, I -- we were working on the assumption that -- what
3 to do if we couldn't get Abid back into his home address
4 because it was quite clear that he was going to need
5 special facilities and all we could think of at the time
6 was the Vic, the Victoria Hospital. It would have
7 appropriate beds, hoists, suitable toilets, things like
8 that.

9 So we were putting that in place, or trying to get
10 something in place because initially we contacted
11 Housing and they had nothing in Fife and I'm sure they
12 told us there was nothing in the Edinburgh area as well,
13 so we knew Housing couldn't help us. So that was one of
14 the avenues that we were looking at, just to see
15 potential -- I mean, it's far from ideal asking somebody
16 to -- well, not be admitted to hospital, but be in
17 hospital when they're not needed, but that's what we
18 were doing as a sort of belt and braces approach type
19 thing.

20 Q. Were the hospital able to assist?

21 A. No. We didn't get any sort of real positive feedback
22 from them. We did make an initial enquiry and again
23 that's something that would have been further explored
24 if it had got to the stage that they weren't able to get
25 Abid back in his home address.

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- 1 Q. And you explain later in your statement, at
2 paragraph 108 -- we can maybe look at that quickly --
3 I will read it short. In this paragraph you explain
4 that you phoned Mr Ahmed to explain that there was no
5 housing available and you think that was just before --
6 or before you terminated duty. What time did you go
7 off-duty?
- 8 A. Off the top of my head -- I mean, we were working a 7.00
9 to 4.00, or 0700 to 1600 hours, but we were on until
10 1830, 1900 hours, somewhere around about that, 1830,
11 something like that. I think I phoned him initially to
12 tell him about the housing and I'm almost certain when
13 I phoned him, that was the last thing I done, to give
14 him a final update of where we were as far as that goes
15 because we were obviously concerned to ensure that we
16 could get Abid back into the property because initially
17 Mr Ahmed was taking Abid to his shop in Kirkcaldy, which
18 is far from ideal for anybody, and I think when I made
19 the initial phone call I'm sure he said he had gone to
20 another family member's address, so we knew he wasn't in
21 the shop at that time. But again, he's in a family
22 member's address, so we were trying to sort that
23 situation out.
- 24 Q. And at paragraph 109 you explain that when you called
25 Mr Ahmed he was far from content, very concerned about

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1 getting back into the property before 10, quite
2 insistent, and rightly so, about the 10 o'clock target
3 and you say:

4 "We made a lot of phone calls and very little
5 progress unfortunately."

6 You have described phoning the emergency social
7 worker, no housing was available, they suggested you
8 call the hospital, that didn't come to anything. Were
9 there any other agencies external to the police that you
10 made contact with on behalf of the family to try to find
11 accommodation in case the 10 o'clock target couldn't be
12 met?

13 A. We were searching our own systems looking for potential
14 family members and connections and things like that to
15 see if there was an address that we could get Abid into.

16 Q. And how successful or otherwise were these calls?

17 A. We weren't that successful at all with it. I mean, we
18 were left with a situation that all we had was the
19 address for Abid to get back to.

20 Q. Okay. So you went off-duty about 7 o'clock. As at the
21 point in time that you went off-duty had the property
22 been returned to the family?

23 A. No, not that I'm aware of, no.

24 Q. And at the point that you went off-duty had you been
25 able to find alternative accommodation in case that

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1 became necessary?

2 A. No. There hadn't been any alternative accommodation
3 secured. All we had was potentially further exploring
4 the Victoria Hospital and maybe even a hotel if there
5 was something available for that.

6 Q. Okay. Can I move on to ask you to look at a letter.
7 This is PS03470. You said, sergeant, that you
8 anticipated a complaint. Are you aware that a complaint
9 was in fact received?

10 A. Yes. I've never seen the letter, but I was -- we spoke
11 to -- Inspector Brown, or Chief Inspector Brown spoke to
12 both myself and DC Petrie about it.

13 Q. Let's look at the letter very quickly to give this some
14 context. It is dated 14 May and it has come from the
15 Fife Islamic Centre. Mr Ahmed has given evidence that
16 in fact he drafted this letter in his capacity, I think
17 as -- he was either chairman or secretary, I'm afraid
18 I'm not sure which from memory, but he has an official
19 role and drafted the letter in that capacity and he
20 explains:

21 "Fife Islamic Centre has for many years worked
22 closely with Fife police to address many issues and
23 concerns of importance to Muslim community. We
24 acknowledge the hard work that Fife police do. However
25 in this instance we believe police did not act

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1 responsibly, this incident happened on 3 May and the
2 people living in the house was thrown out of the house
3 (including 7 weeks old baby and a disable person ...) in
4 to the street with out any explanation. As this
5 incident has been reported to Islamic Centre's committee
6 we are seeking a meeting with yourself to safeguard
7 safety of our Muslim community as soon as possible thank
8 you very much for your kind attention."

9 And if we can look at the response that Mr Ahmed
10 received it's PS03477, and as we work our way through
11 the letter and get to the bottom we will see that it has
12 in fact been sent by Tom Brown, the inspector who you
13 mentioned just a moment ago, but if we could return to
14 the top of the letter please. There are some
15 pleasantries and an introduction. Then:

16 "On 3 May 2015 officers from P Division ... attended
17 [an address] in connection with an incident which had
18 occurred earlier in Kirkcaldy.

19 "At that time the officers were instructed to secure
20 the premises as there was potential forensic evidence
21 within which required to be secured.

22 "On arrival the premises were occupied by your wife,
23 son and daughter. The police subsequently secured the
24 premises and requested that the occupants found
25 alternative accommodation until the forensic examination

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1 was complete.

2 "You have raised concerns that the police officers
3 failed to communicate the purpose of their attendance
4 fully to you which resulted in confusion.

5 "Having discussed the matters with you in detail it
6 is clear that there have been shortcomings with regard
7 to the standard of communication between the police and
8 members of your family.

9 "It would appear that the requirement to secure
10 potential forensic evidence has superseded quality of
11 service. This should not have been the case.

12 "Whilst there is a balance to be struck with regard
13 to what information is shared between the police and
14 members of the public with regard to confidentiality,
15 this should have been managed in a fashion so that you
16 understood why you were being asked to vacate the
17 premises.

18 "You have instructed that you do not wish to make
19 an official complaint and wish the matter to be
20 addressed locally.

21 "I consider the point you have raised to be upheld
22 and your perceptions have been brought to the attention
23 of the officers in attendance."

24 There is then a thanks and apologies for the
25 unnecessary inconvenience caused. Have you seen this

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1 letter before?

2 A. No.

3 Q. No, but you said that Tom Brown did speak with you?

4 A. Yes, he did, yes.

5 Q. And the letter says that Mr Ahmed's perceptions had been
6 brought to the attention of the officers in attendance.

7 Did Inspector Brown bring these matters to your
8 attention?

9 A. He did, yes. We had a discussion about it and just as
10 we have discussed today, we talked about potentially we
11 should have gotten more information for the family at
12 that time.

13 Q. So was that a discussion that you had with
14 Inspector Brown?

15 A. Yes.

16 Q. So together did you reflect on what had happened and
17 perhaps lessons that could be taken from it?

18 A. Yes, I would agree with that, yes.

19 Q. And what do you feel that you have learned from that
20 experience?

21 A. Well, as I said, it was quite a unique situation that we
22 found ourselves being part of, if you like, because
23 normally the fact that the witnesses that were in the
24 household would have been infants, young children and
25 people with additional needs made it a lot more

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1 MS THOMSON: I wonder if we can look one last time at the
2 scene entry log and perhaps I can advise you that the
3 Inquiry has heard evidence that DS Dursley instructed
4 two officers to trace and note a statement from
5 Zahid Saeed on the morning of 3 May 2015 and he began
6 giving his statement at 2.30 pm on 3 May.

7 Now, if we can look at page 12 please of the PDF.
8 There we are. Do we see that Zahid Saeed arrived at his
9 family home at 2105 hours on 3 May 2015 and that was for
10 the purpose of assisting the MIT in recovering items and
11 that he left his address half an hour later at
12 2135 hours?

13 A. Yes.

14 Q. Do we also see that DC Finch stood down or concluded
15 locus protection at 2135 hours?

16 A. (Nods).

17 Q. So it would appear that after the police noted
18 a statement from Zahid Saeed, he presumably provided
19 certain information that informed them as to what
20 evidence they might expect to recover from his home,
21 that with his assistance the search was over and done
22 with in a half hour?

23 A. (Nods).

24 Q. And of course during the course of that afternoon you
25 had spent time, as you put it, trying to explain and

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1 persuade and reassure the family to leave so that their
2 address could be secured and searched, and you then
3 spent a considerable period of time making calls to
4 a social worker, Housing, Victoria Hospital, Mr Ahmed
5 and doing your best to devise a plan B in the event that
6 it wasn't possible for the family to return home that
7 evening.

8 A. Mm-hm.

9 Q. But it would appear to be the case that had it been
10 possible for the MIT to have brought Zahid Saeed to the
11 address earlier in the day -- and you certainly left at
12 quarter to 3 in the afternoon and the family you said
13 left around about the same time -- then it might -- it
14 might have avoided the upheaval to the family and might
15 also have avoided you having to make all of the
16 enquiries that you made in the course of that afternoon.

17 A. Yeah, it certainly looks that way, that's fair enough,
18 yes.

19 Q. We can take that down from the screen now, thank you.

20 I want to move away from the events at Mrs Rashid's
21 family home and ask you about a separate matter. Can we
22 perhaps pull up your statement again and look at
23 paragraph 103, where you explain that you searched on
24 Crimefile, which was a crime system they were using at
25 that time:

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1 "... looking for family members and addresses
2 because we were aware that the father, Mr Ahmed, had
3 said that he was going back to his shop. He had a shop
4 in Kirkcaldy, and all this wasn't very conducive for
5 [his son] to be on shop premises, which you could
6 understand. Short-term, when I say short-term I mean
7 immediately, it would have been all right, but they were
8 looking for a family member or a friend or some place
9 for [Mr Ahmed's son] to go."

10 So this again I think is on 3 May. In fact we see
11 in the paragraph above that you are talking about making
12 contact with the hospital, which we know you did after
13 speaking with Social Work, so you also searched
14 Crimefile looking for family members and addresses. Why
15 were you looking for family members and addresses?

16 A. Just for -- first of all, can I just explain Crimefile
17 is an overall system. It has -- it had the accident
18 file and things like that in it as well, so it's not to
19 say that anybody was associated with a crime that would
20 be on that system, it was very much all kinds of
21 witnesses that would have been within there.

22 So we were looking at potentially other family
23 members or friends that would have a connection that we
24 could maybe reach out to to try and get Abid some place
25 to go to. That was the reasoning behind that. But, as

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1 I say, it's an overarching system.

2 Q. Okay, and why were you trying to trace family and
3 friends who might be able to help? Why didn't you just
4 ask Mr Ahmed or Mrs Rashid?

5 A. I think we had initially but again we were looking on
6 the presumption, just in case we weren't able to get
7 Abid back to the address in time. That's what we were
8 looking at.

9 Q. But would it not have been quicker and easier to ask
10 Mr Ahmed and Mrs Rashid if they had family or friends
11 who could support them in that situation?

12 A. Yes, it would have, but, as I said, at that time they
13 weren't there. Mrs Rashid had gone back to Glasgow and
14 Mr Ahmed had gone back to his shop, so again, we were
15 just looking for information to see if there was any way
16 we could assist if need be.

17 Q. But you had a line of communication with Mr Ahmed, you
18 phoned him a couple of times, you said?

19 A. Yes. I think I maybe left a message once on his answer
20 machine or -- I don't recall, but yes, I did have some
21 lines of communication with him, yes.

22 Q. And did you ask Mr Ahmed or Mrs Rashid before the point
23 in time that they left their family home whether there
24 were any family or friends who might be able to help out
25 if it wasn't possible to get the house back by

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1 10 o'clock that night?

2 A. I don't recall exactly what was said, but yes, we would
3 have asked something along those lines to try and see if
4 there was some way to find a resolution, yes. But
5 again, they were quite unhappy and annoyed, to say the
6 least, at that time, so we were going -- sort of
7 reflecting on what's happening and trying to find
8 solutions at that stage.

9 Q. Can we move on to another subject. Can we look at
10 paragraph 122 of your statement. This is under
11 the heading, "Race":

12 "I am asked if I have ever witnessed any examples of
13 racial discrimination, including racist jokes and
14 comments, by police officers or police staff during my
15 time with the police. Not really. I had one incident
16 which I dealt with. When a call comes into the control
17 room, they're encouraged to write everything down on
18 STORM and the comments/text added were inappropriate.
19 The call taker had noted from the called that the
20 officer that he was trying to contact was called Rory.
21 The call card read 'I'm trying to get in contact with
22 an officer called Rory, as in Roary the Racing Car, he's
23 a coloured officer'. This was brought to my attention
24 by the officer in question and I ensured it was dealt
25 with appropriately. That had been taken from C3.

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1 I spoke to the officer, and he clearly was a wee bit
2 uncomfortable. It was corrective advice given out, and
3 he was content with it, but that's really the only
4 racial thing I've had to deal with. I mean, we've had
5 racial crimes, but not within the police, I would have
6 to say."

7 So this reference, Roary the Racing Car, can you
8 explain the background to that reference?

9 A. It was just somebody within C3 had written something
10 down completely inappropriately on a call card. It was
11 an individual that was known to the police that was
12 phoning in and he was talking about a black officer and
13 that was the type of thing he was saying. At that time
14 C3 were encouraged to write down exactly everything that
15 was said over the phone, you know, from that, but that
16 behaviour should have been challenged at that time, that
17 that wasn't acceptable and a correction should have been
18 given from them. The officer in question highlighted it
19 to me. He was suggesting it was a humorous type thing
20 because it had been brought to his attention, you know,
21 from that, but it clearly wasn't right so I ensured that
22 I spoke to him on his own and I made sure we made our
23 inspector aware and C3 was contacted and corrective
24 advice was given out.

25 I mean, there was no intent from the call taker to

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1 put something on like that, but clearly in that instance
2 that should have been stopped when, you know, somebody
3 using terminology like that.

4 Q. What's that a reference to, Roary the Racing Car?

5 A. I think it's a cartoon or something, is it not?
6 Something like that.

7 Q. Okay, and so you spoke with the call handler and gave
8 corrective advice?

9 A. No, I spoke with my inspector --

10 Q. Sorry?

11 A. -- I highlighted it with her and she highlighted -- it
12 was a different division. She highlighted it through
13 their channels and it was taken back. It's -- the way
14 the system works it's clear who is putting information
15 on, so we were able to trace who had put the entry on.

16 Q. I see, I beg your pardon. I think I have misread this
17 paragraph from your statement. So it was brought to
18 your attention by the officer in question, that's the
19 officer whose first name is Rory brought this to your
20 attention; is that right?

21 A. That's right, yes. Sorry, yes.

22 Q. No, no, it's my error not yours. You ensured it was
23 dealt with appropriately. You spoke to the officer; is
24 that the officer whose first name is Rory that you spoke
25 with, who was uncomfortable?

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- 1 A. Mm-hm.
- 2 Q. I see, okay. Corrective advice was given out and he was
3 content with that. But the corrective advice wasn't
4 given out by you?
- 5 A. No.
- 6 Q. No. Who was responsible for giving the corrective
7 advice?
- 8 A. It would have been the call taker's line manager,
9 I would presume.
- 10 Q. And is this a matter that was referred to Professional
11 Standards?
- 12 A. No.
- 13 Q. No. In what circumstances would something be referred
14 or not?
- 15 A. Well, there clearly wasn't any intent by the person to
16 cause offence by writing that down there. If there was
17 a sort of racial incident of any kind we would -- you
18 would refer it to professional -- to PSD. You would
19 raise a memo and refer it to them for their attention.
- 20 Q. Okay. But you say that's the only incident that you
21 have had to deal with and you say in the next paragraph
22 of your statement that you haven't heard racist jokes,
23 or not in the context of policing?
- 24 A. No, not now. Certainly when I started there was a few
25 dinosaurs, is probably the best way to describe it,

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1 kicking about that were maybe a bit inappropriate with
2 some of the things they said, but not nowadays.
3 Everybody's -- we had the diversity training in 2001,
4 you know, we have evolved. Officers and young people
5 that come into policing now know exactly what's
6 acceptable and what's not, so you tend to find that the
7 majority of officers -- I mean, they're just
8 a cross-section in the population at the end of the day,
9 but everybody knows where my values sit, so I've
10 certainly not been party to any sort of racial comments
11 or anything like that.

12 Q. You mentioned there your diversity training. We spoke
13 about that a little bit earlier. I just have one final
14 question to ask you in connection to training before we
15 conclude your evidence and I wanted to ask what training
16 you had received prior to 2015, and perhaps more
17 recently than that in relation to seizure and search of
18 properties, the powers that you have, what to do if
19 householders won't consent, that sort of thing. Have
20 you had any training on those issues?

21 A. Well, at that stage -- you get your initial training
22 when you join the police. We would have a detective
23 training. At that time it was a month's course that you
24 would go and you would study case law, various things
25 like that, while you were there and you would have

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1 inputs from crime scene managers, Fiscals, various
2 other -- pathologists, whatever, so those sort of things
3 would be discussed, the rights and wrongs of seizing
4 stuff, you know. If you were in a property looking for
5 drugs and you find a firearm, obviously you have to stop
6 and then go and get an additional warrant because that's
7 not what you're looking for, that kind of thing. But
8 apart from that I cannae say what sort of training other
9 than your sort of initial -- your detective training,
10 and then we have all these Moodles that we tend to do.

11 Q. Thank you. Can you bear with me just a moment.

12 A. Of course.

13 MS THOMSON: I have no further questions for you. That
14 completes my examination, sir.

15 LORD BRACADALE: Are there any Rule 9 applications?

16 Sergeant Miller, thank you very much for coming to
17 give evidence to the Inquiry. We're about to rise for
18 the day and you will then be free to go, thank you.

19 A. Thank you.

20 LORD BRACADALE: The Inquiry will adjourn.

21 (3.33 pm)

22 (The Inquiry adjourned until 10.00 am on Tuesday,
23 5 December 2023)

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