

# Transcript of the Sheku Bayoh Inquiry

Thursday, 8 February 2024

(10.00 am)

Further Part 9 application by MS MITCHELL

LORD BRACADALE: Ms Mitchell, I understand you have an additional point.

MS MITCHELL: Yes, I do and that additional point arises as a result of disclosure in tranche 18, the Inquiry will know that disclosure is ongoing throughout course of the Inquiry, as these things do. Tranche 18 was disclosed on 5 February 2024, revealing an additional statement of Irene Scullion of PIRC. This additional statement was taken from her to allow her to comment on comments attributed to her by Kate Frame.

Kate Frame says she is told by Ms Scullion -- this is to be found at Kate Frame's statement, 162, 163 and 164, that she then said, and this is referring to Irene Scullion:

"She then said that a man had been seen chasing after cars with a knife, that the police had been dispatched and Police Scotland had considered that it might be a terrorist incident. Against the backdrop of the information that she provided I didn't understand why it had been considered to be a terrorist incident and asked why. She said it was because the man was what she described as 'a coloured gentleman' and I asked her

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1           what she meant by that and whether there was anything to  
2           point to it being a terrorist incident, as I still found  
3           it difficult to understand what would cause the police  
4           to think that the incident was terror-related. She said  
5           that his actions in chasing after and striking out at  
6           cars with a knife may have contributed to that believe,  
7           and she referenced an attack in England. Ms Scullion  
8           informed me that Police Scotland and not the individual  
9           officers had considered it might be a terrorist  
10          incident.

11                 "I have been asked where Irene Scullion obtained the  
12          information~..."

13   LORD BRACADALE: Ms Mitchell, could I ask you to slow down  
14          a little bit. I think the stenographer is struggling.

15   MS MITCHELL: "I have been asked where Irene Scullion  
16          obtained the information that Police Scotland had  
17          considered it might be a terrorists incident. I don't  
18          know but I would assume she spoke to Mr Harrower and  
19          someone in Police Scotland."

20                 A statement was then taken from Irene Scullion, she  
21          denies she used the phrases "a coloured gentleman" but  
22          when asked in relation to who told her this question she  
23          said, "It would have been Mr Harrower or Mr Cary". So  
24          I would like to put to this witness whether or not it  
25          was him that said this, whether or not he raised issue

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1 of terrorism with Irene Scullion in a telephone call and  
2 if this was linked to Mr Bayoh's colour.

3 Further, my Lord, yesterday you asked me in relation  
4 to the first issue the date of when it was known by  
5 Mr Harrower that the information had changed, and  
6 further to investigation it appears that the document  
7 which is referred to in which the information had  
8 changed was available to Mr Harrower prior to taking  
9 a statement from him on 4 June 2015.

10 LORD BRACADALE: Thank you.

11 Thank you for giving notice of the additional matter  
12 which I shall allow you to explore. In relation to the  
13 proposed questions about briefing document PIRC 03694,  
14 I shall allow that line of questioning. I shall also  
15 allow the proposed questions as to whether the witness  
16 was aware of the suggestion that officers were refusing  
17 to give statements pending the outcome of the  
18 post mortem, and if so, whether he discussed that with  
19 Mr Green.

20 In relation to the application in respect of the  
21 section on restraint in the witness interview strategy  
22 PIRC 04182, having regard to the terms of the general  
23 introductory paragraph under the heading, "Arrest and  
24 restraint", I do not think that this line of questioning  
25 would assist me and I shall not allow that.

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1           In relation to the further questioning about  
2           the Commissioner's letter to Mr Anwar, no doubt Ms Frame  
3           can be asked about the letter in due course. I do not  
4           think that I would be assisted by further exploration of  
5           this chapter with this witness and I shall not allow  
6           that.

7           I shall allow Ms McCall to ask her questions in  
8           relation to the Rule 8 statement of Ross Sinclair.

9           So if we could have the witness back, please, and if  
10          Ms Mitchell and Ms Grahame could rearrange their  
11          seating.

12                           MR KEITH HARROWER (continued)

13          LORD BRACADALE: Good morning. Good morning, Mr Harrower.

14          You are going to be asked some questions first this  
15          morning by Ms Mitchell, senior counsel for the  
16          Sheku Bayoh families.

17                           Ms Mitchell.

18                           Questions from MS MITCHELL

19          MS MITCHELL: I am obliged. Could we have on screen

20          PIRC 03694. This is the briefing note of 3 May which we  
21          have already looked at when my learned friend was asking  
22          you questions.

23                           If we can scroll down to the part where it said:

24                           "They could clearly see he was in possession of  
25          a knife and was making his way towards them."

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1 I think it is down on the next page. If we stop  
2 there. Do you see in that second paragraph there:

3 "It was reported that as the officers drove into  
4 Hayfield Road~..."

5 A. Yes.

6 Q. That paragraph here. Now, we understand from your  
7 evidence that you gave yesterday that after this time it  
8 became apparent that the idea that Mr Bayoh had a knife  
9 with him, in possession of a knife and was making his  
10 way towards them, might not in fact be correct; is that  
11 so?

12 A. Yes, that was not on the Sunday. That was sort of in  
13 the early stages I think of the enquiry as it  
14 progressed, I don't know what the actual time scale on  
15 that was.

16 Q. Indeed. But we know from a document that we also saw  
17 yesterday in relation to preparation for witness  
18 questions that by -- as of the date I think 4 June there  
19 was a document prepared which moved away from  
20 a statement that the officers -- that Mr Bayoh had been  
21 seen with a knife in his possession.

22 A. Yes, and I think there was a note in brackets, I think  
23 from memory, from looking at that, questioning that or  
24 suggesting that that might not be the case.

25 Q. Indeed. So what I would like to ask you about that is

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1 given the fact that this information was posed so  
2 definitively at the time:

3 "They could clearly see he was in possession of  
4 a knife and was making his way towards them."

5 And that is a report you have been given, when you  
6 found out that that may not be the case, and that there  
7 was a different narrative in place that he didn't have  
8 a knife when the police approached him, did you become  
9 suspicious that at some point officers or someone had  
10 suggested that he was clearly in possession of a knife  
11 and he moved -- and they moved away from that?

12 A. So this is clearly into the enquiry after the Sunday --

13 Q. Yes.

14 A. -- you are referring you to. Obviously at that stage  
15 the direction on the investigation was being conducted  
16 by Billy Little and John McSporrán. Now, I am aware  
17 certainly I don't know any great detail that other  
18 officers, other than the officers who did not initially  
19 provide accounts of the incident, were interviewed in  
20 relation to that, and in relation to their observations  
21 and involvement in the incident. And I would believe  
22 that that would be covered with any of these officers as  
23 regards what their observations were, what was conveyed  
24 back and forward --

25 Q. With respect, that isn't my question. My question is

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1           having been told first of all that someone was in  
2           possession of a knife and was making his way towards  
3           people, and then finding out later that that was not the  
4           case, or didn't seem to be the case, would that make you  
5           suspicious that at the start you had not been told the  
6           right information?

7           A. It would certainly I think make it clear that the  
8           information that was conveyed was not factual.

9           Q. If that information that was conveyed is not factual,  
10          would that cause you to be concerned that someone had  
11          lied about that?

12          A. Not specifically lied, no, because as I said I think in  
13          the evidence that I gave previously, that it is not  
14          common but it has happened a lot where you get initial  
15          versions of an event which is given in all honesty and  
16          what has been passed but maybe through -- as it goes  
17          through different hands it potentially gets mixed up or  
18          there is a misinterpretation of what they have been  
19          told, so that is a kind of collective in that  
20          information that is passed on during the briefing.

21          Q. So at a later stage when you were asking questions -- we  
22          know that you asked questions of at least one witness  
23          and he was one of the first to attended at the scene --  
24          did you enquire as to why it had been the case that  
25          an impression was formed first of all that Mr Bayoh had

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- 1 clearly been in possession of a knife and thereafter  
2 that had changed?
- 3 A. I can't remember the detail of the statement, I would  
4 need to look at that. The purpose of that interview was  
5 to follow that -- the initial interview plan to gain as  
6 much information as possible about that officer's  
7 lead-up to the incident, his involvement directly with  
8 Mr Bayoh, and also -- I think I also said any questions  
9 that I thought were relevant during the course of that  
10 interview to add on to that would be asked and would be  
11 contained within the statement.
- 12 Q. But Mr Harrower, wouldn't it have been significant to  
13 you, if you believed that -- you had information that  
14 you had been told that police officers they could  
15 clearly see he was in possession of a knife and making  
16 his way towards them and then in that second interview  
17 you were being told something different, to explore that  
18 difference?
- 19 A. I don't know what the origins collectively of that  
20 information was, I understand --
- 21 Q. Indeed, and wouldn't that be all the more reason you  
22 might want to explore that?
- 23 A. My understanding was that the officers had not given  
24 accounts, so ...
- 25 Q. Well, the officers might not have given accounts but we



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1 have a briefing note and you explained the importance of  
2 the briefing note yesterday to the Chair, and why that  
3 was important. The briefing note is clear that it says  
4 he was in possession of a knife and making his way  
5 towards them.

6 If we took it away from this example and we moved  
7 for example towards a civilian incident, and you had  
8 found out as a police officer -- take it away from PIRC,  
9 take it as a police officer -- if you had identified, as  
10 a police officer, that you had been told by somebody  
11 that they had seen man in possession of a knife making  
12 their way towards someone, and then you found out later  
13 that wasn't the case, would you not be interested in  
14 pursuing that as a line of enquiry as to why that had  
15 changed?

16 A. Depending on the circumstances it would be possible that  
17 that would be pursued after the event to then fill in  
18 any apparent blanks or to complete the whole picture.

19 Q. Did you pursue that with the witness that you asked --

20 A. Not on the Sunday, no.

21 Q. Did you pursue it at all?

22 A. Not personally, no. But as I said, my understanding is  
23 that a number of witnesses, obviously the officers that  
24 attended the scene immediately after the incident  
25 started, that would have given accounts --

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- 1 Q. When you said "not personally", do you know if any of  
2 your colleagues did?
- 3 A. I am aware in general the other officers that attended  
4 were interviewed at some stage, I don't know --
- 5 Q. But you don't know whether they followed the line of  
6 enquiry of the change in position?
- 7 A. No, I don't, no.
- 8 Q. The next question I would like to ask you is about you  
9 attended at Kirkcaldy Police Office on 3rd and no doubt  
10 you were getting information, you've already mentioned  
11 Pat Campbell. Were you aware from anyone, including  
12 Pat Campbell or otherwise, that it had been said that  
13 police officers would not provide a statement until the  
14 outcome of the post mortem?
- 15 A. No, I was told that on legal advice that the officers  
16 received they were not providing witness accounts at  
17 that time. I wasn't aware that that related in some  
18 form to the potential outcome of a post mortem.
- 19 Q. I see. So if that was the case, did you become aware  
20 later that that was the position? Not on the day of the  
21 3rd, did you become aware at a later stage?
- 22 A. I'm not sure in relation to any reference to the  
23 post mortem.
- 24 Q. So you wouldn't be able to assist us as to whether or  
25 not Mr Green was aware of that? You certainly didn't

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- 1 pass that information on to him?
- 2 A. No, I did not, no.
- 3 Q. I would like to go back to an issue that we -- that was  
4 discussed yesterday, and that issue was about your --  
5 sorry, no, I will come to that later. I would like to  
6 discuss an issue with you in relation to evidence that  
7 we've not heard yet but written evidence which we will  
8 come to hear of an Irene Scullion. You know  
9 Irene Scullion, she is a colleague of yours.
- 10 A. Yes, I do. Yes.
- 11 Q. Can you give us her title at the time?
- 12 A. She was previously head of investigations for the PIRC.
- 13 Q. As she was head of investigations were you having  
14 conversations with her on 3 May or --
- 15 A. No, I don't believe I spoke to her on the 3rd, probably  
16 on Monday 4 May.
- 17 Q. I see. Is there a reason you wouldn't have spoken to  
18 her on the 3rd?
- 19 A. Not particularly. I would probably -- I don't know for  
20 sure that Ricky Casey would have spoken to her in his  
21 position as a senior investigator.
- 22 Q. I see. So you presume it would have been Mr Casey that  
23 would have had a conversation with her?
- 24 A. Yes, that is the presumption, I don't know for sure  
25 whether he spoke to her that day or the following day.

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1 Q. Did you speak to Mr Casey and ask him at all? Or was  
2 there any conversation between the two of as you to who  
3 would report that matter up?

4 A. No, I don't recall -- it would be something that  
5 would -- I would expect would be done that the head of  
6 investigations, if it was a critical incident, at some  
7 point would be made aware of the existence and the fact  
8 that we had resources deployed.

9 Q. When you spoke to her can you recall what your  
10 conversation was about; did you tell her about  
11 the background of the incident?

12 A. I don't know the specific conversations, again this  
13 would be speculation. As a matter of routine, if she  
14 was in the office then I would certainly have some  
15 conversation regarding the activities and involvement of  
16 myself and my team that day. But I don't recall any  
17 direct conversation with her.

18 Q. If I may read from you, this is a statement given from  
19 Kate Frame and she is told -- she says she is repeating  
20 something told by Ms Scullion, so Kate Frame's  
21 statement -- I don't need it brought up unless -- oh,  
22 it's available, thank you. Kate Frame's statement  
23 paragraph 162, thank you.

24 So we see paragraph 162 starts:

25 "She then said that the man had been seen ..."

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1           This is Kate Frame referencing Irene Scullion:  
2           "She then said that the man had been seen chasing  
3           after cars with a knife, that the police had been  
4           dispatched and that Police Scotland had considered that  
5           it might be a terrorist incident. Against the backdrop  
6           of the information that she'd provided, I didn't  
7           understand why it had been considered to be a terrorist  
8           incident and asked why. She said it was because the man  
9           was what she described as 'a coloured gentleman', and  
10          I asked her what she meant by that and whether there was  
11          anything else to point to it being a terrorist incident,  
12          as I still found it quite difficult to understand what  
13          would cause the police officers to think that the  
14          incident was terror-related. She said that his actions  
15          in chasing after and striking out at cars with a knife  
16          may have contributed to that belief, and she referenced  
17          an attack in England.

18          "Mrs Scullion informed me that 'Police Scotland' and  
19          not the individual officers had considered that it might  
20          be a terrorist incident."

21          Then she says:

22          "I have been asked where Irene Scullion obtained the  
23          information that Police Scotland considered it might be  
24          a terrorist incident. I don't know but I would assume  
25          that she spoke to Mr Harrower or someone within

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1 Police Scotland."

2 When Irene Scullion was asked about this, first of  
3 all she took issue with Kate Frame's description as  
4 being "a coloured gentleman" but secondly she says that  
5 she would have received the information from Mr Casey or  
6 Mr Harrower. What I would like to ask you is, having  
7 heard that, firstly were you aware that Police Scotland  
8 were considering it a terrorist incident in the first  
9 stages?

10 A. No, it wasn't. There was no consideration of that that  
11 was raised with me at all.

12 Q. No consideration. So there is no consideration you  
13 would say presumably that would be raised with Mr Casey  
14 either?

15 A. No. He was, as far as I am aware, was -- basically got  
16 the information direct from me at any stage on  
17 an update, or during the course of that day. So to read  
18 that, that is a surprise to me, that certainly never  
19 came from me because if there had been anything that had  
20 suggested it was terrorist-linked then clearly that  
21 would have been highlighted in that briefing document as  
22 well.

23 Q. So what we have is Kate Frame telling her that  
24 Irene Scullion has heard this from either you or  
25 Mr Casey and reported it back. That is --

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- 1 A. Absolutely not.
- 2 Q. -- as we understand it?
- 3 A. Not a possibility of it.
- 4 Q. So are you suggesting it is not a possibility that
- 5 either you or Mr Casey --
- 6 A. No, I am suggesting from my part. I can only speak from
- 7 my part and I can only convey that I gave updates to
- 8 Ricky Casey during the course of the day but I have
- 9 never articulated that in relation to considerations for
- 10 the incident.
- 11 Q. This Inquiry has heard evidence that at the very early
- 12 stages of the enquiry that was an initial but discounted
- 13 hypothesis; were you aware of that?
- 14 A. Yes.
- 15 Q. Had you been aware of that on the day?
- 16 A. Yes.
- 17 Q. Is it possible you communicated that with her on that
- 18 morning and later the situation changed and that is why
- 19 you can't remember it?
- 20 A. I think it is unlikely because if that had been
- 21 considered and dismissed at an early stage, then the
- 22 relevance of that~... I can't see that being included in
- 23 a detailed outline and summary of the incident.
- 24 Q. But Mr --
- 25 A. Unless I had been asked to respond, "Was there any

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- 1 consideration that that what the case?" And then  
2 I would have confirmed that was no.
- 3 Q. But Mr Casey was getting his information from you about  
4 what had happened --
- 5 A. As far as I am aware, I don't know what other  
6 communications he had with anyone who had a good  
7 understanding of how things were developing on the day,  
8 other than I know he was involved in the -- in relation  
9 to the media side of things, whether he actually  
10 communicated with Police Scotland or Crown in relation  
11 to any of that and there was any discussions there, but  
12 as I say that is -- I am just --
- 13 Q. Following the chain of command would you have expected  
14 anyone else who was there that day to have been passing  
15 information to him?
- 16 A. Not -- that didn't happen as far as I am aware, I would  
17 be the single point of contact and the conduit for that.
- 18 MS MITCHELL: Thank you.
- 19 LORD BRACADALE: Ms Mitchell, if you would go back to your  
20 seat and Ms McCall can come forward.
- 21 Questions from MS MCCALL
- 22 LORD BRACADALE: Mr Harrower, Ms McCall, senior counsel for  
23 Sergeant Maxwell, has some questions for you.
- 24 MS MCCALL: Mr Harrower, yesterday afternoon you were asked  
25 a number of questions about the interview strategy that



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1           was prepared by one of PIRC's interview advisers.

2       A.   Yes.

3       Q.   You were asked about the fact that there were no  
4           questions in that seeking information from the officers  
5           to justify their use of force. Do you remember that  
6           passage of questions?

7       A.   Yes.

8       Q.   I think you were also asked whether you or less  
9           senior investigators might have felt constrained by the  
10          interview strategy from asking other questions, do you  
11          recall that?

12      A.   Yes, I recall that.

13      Q.   I think you said you personally didn't feel constrained;  
14          is that right?

15      A.   No, I personally didn't. Not at all, far from it.

16      Q.   An example was given to you of another investigator who  
17          might have felt constrained and that was Ross Stewart.  
18          Do you remember being asked about that?

19      A.   Yes.

20      Q.   And a quote from Mr Stewart was put to you, and I will  
21          just remind you what was put to you as a quote from him.  
22          It was:

23                 "I do not recall considering specifically asking  
24                 Sergeant Maxwell why he took a particular course of  
25                 action. I do not recall being encouraged to ask why."

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1           It may have appeared that was a single remark from  
2           Mr Stewart but in fact it is sentences that come from  
3           different parts of his statement that have been put  
4           together when they are presented to you.

5           A. Okay.

6           Q. So what I want to do is just put those sentences in  
7           their actual context and ask for your comment. Do you  
8           follow me?

9           A. Yes, I follow.

10          Q. So the context of the first part of it was it was put to  
11          you that Ross Stewart didn't appear to consider asking  
12          questions about what the justification was for the use  
13          of force, or the intention to use force. The part that  
14          was put to you about that was:

15                 "I do not recall considering specifically asking  
16                 Sergeant Maxwell why he took a particular course of  
17                 action."

18          Leaving aside for the moment that the Inquiry's  
19          evidence is that Sergeant Maxwell didn't use force at  
20          all against Mr Bayoh, I take it he may have been asked  
21          to justify decisions that he took as the supervisor that  
22          day; would that be fair?

23          A. Yes, absolutely. Yes.

24          Q. So I want to give you the actual quote from Mr Stewart.  
25          It was this:

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1            "I do not recall considering specifically asking  
2            Sergeant Maxwell why he took a particular course of  
3            action. He answered this question with the answers he  
4            provided."

5            So that was the whole remark from Mr Stewart.

6            Does that accord with the approach that you were  
7            describing yesterday, that as matters developed in the  
8            interview, the officer witnesses may have volunteered  
9            the why for their actions, in which case you would have  
10           noted that down?

11          A. Yes. Well, from what you have said there, it comes  
12          across to me that he has considered that, however, the  
13          officer that he is interviewing has provided that  
14          information thus negating the need to pursue that any  
15          further, and that is a decision for him, quite rightly,  
16          conducting the interview, and evaluating whether he has  
17          sufficient information to cover all the questions that  
18          may be asked.

19          Q. The second part of it is it was also put to you that  
20          Mr Stewart said, and this was the last bit of the quote  
21          that was put to you:

22                "I do not recall being encouraged to ask why."

23                And that was -- the suggestion was he may have felt  
24                constrained in some way by the strategy. So I will read  
25                you now the full quote from Mr Stewart from which that

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1           came and it's this:

2                     "I was noting Sergeant Maxwell's statement. I, as  
3           an investigator, would have no issues to adding  
4           additional questions before the interview and asking  
5           more questions during the interview if I felt it  
6           necessary, while remaining focused on the purpose of the  
7           interview. I do not recall being encouraged to ask  
8           why."

9                     So with that whole quote now available to you, again  
10          does Mr Stewart appear to have taken the same approach  
11          as you, which was that he felt at liberty to ask further  
12          questions if needed?

13        A.   Again, if I was evaluating what I thought that meant  
14          that would be exactly the case, that he would develop  
15          that interview and record that information as he saw  
16          fit, and the last part of that quotation is -- I don't  
17          know if that was in response to a question but he has  
18          made the comment that -- stating the fact that nobody  
19          has encouraged him to do that. However, the way he was  
20          approaching it was methodical and he would use his own  
21          initiative as far as additional questioning with that  
22          onus on whatever subject matter he was involved with at  
23          that time.

24        Q.   On 4 June you told us about you and a number of  
25          investigators going to the Police College to interview

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1 the officer witnesses?

2 A. Yes.

3 Q. I think what you said to us yesterday was you had some  
4 discussions beforehand about the strategy and what was  
5 going to happen and you also had breaks in between where  
6 things could be discussed if needs be; is that right?

7 A. Yes.

8 Q. Do you consider that Mr Stewart, or indeed any of the  
9 PIRC investigators that interviewed the officers that  
10 day, were in any way hampered by the interview strategy?

11 A. No. As I say, that was initially there as a specific  
12 guide, there has obviously been observations that --  
13 certain opinions that questions could be included within  
14 that, but it would -- nobody would ever be persuaded to  
15 take one straight line on things and then not use their  
16 initiative and their experience to ask the relevant  
17 questions as the interview and the statement developed.

18 MS MCCALL: Many thanks, Mr Harrower. Thank you, sir.

19 LORD BRACADALE: Mr Harrower, thank you very much for coming  
20 to give evidence to the Inquiry. That is the evidence  
21 completed now. I am grateful for your time. The  
22 Inquiry is going to adjourn briefly in order to organise  
23 things for the next witness and when that happens you  
24 will be free to go.

25 A. Thank you, sir.

## Transcript of the Sheku Bayoh Inquiry

1 LORD BRACADALE: We will adjourn now.  
2 (10.30 am)  
3 (A short break)  
4 (10.40 am)  
5 LORD BRACADALE: Good morning Mr Lewis. Will you raise your  
6 hand and say the words of the oath.  
7 MR ALISTAIR LEWIS (sworn)  
8 Questions from MS THOMSON  
9 LORD BRACADALE: Ms Thomson.  
10 MS THOMSON: Can you confirm your full name.  
11 A. Alistair Lewis.  
12 Q. Your age?  
13 A. 61.  
14 Q. I believe you are a deputy senior investigator with the  
15 Police Investigations and Review Commissioner?  
16 A. Yes.  
17 Q. We have been calling them PIRC for short.  
18 A. Yes.  
19 Q. I believe that you have worked for PIRC since 2013?  
20 A. Yes.  
21 Q. Initially as an investigator?  
22 A. Yes.  
23 Q. And that you were promoted to deputy senior investigator  
24 in 2018?  
25 A. That is correct, yes.

## Transcript of the Sheku Bayoh Inquiry

1 Q. Before we go any further, can I ask you to take a look  
2 at the blue folder that is in front of you. There are  
3 some documents in there that you might find it helpful  
4 to refer to during the course of your evidence, so  
5 I will just take you through what should be in the  
6 folder.

7 A. Okay.

8 Q. First of all, there should be a statement that you  
9 prepared on 9 July of 2015. That is PIRC 00341, if we  
10 can bring that up on the screen for a moment, please.  
11 So do we see this is a statement prepared by you on  
12 9 July 2015?

13 A. Yes.

14 Q. What was the purpose of you preparing that statement?

15 A. The main reason for that was the start of the  
16 investigation, rather than preparing a statement at the  
17 end of the investigation, you had it ongoing and could  
18 fill in to it. However, predominantly my FLO log was my  
19 reference book for any future statements.

20 Q. So why was this statement prepared on 9 July?

21 A. No specific reason on 9 July, probably just the time --  
22 I took the time to sit down and make a start on it, and  
23 it just happened to be 9 July.

24 Q. Did you prepare any further operational statements after  
25 the one that you prepared on 9 July?

## Transcript of the Sheku Bayoh Inquiry

1 A. No, I think that was a sort of continuation, I had  
2 that -- if you like a living document, for want of  
3 a better word, which I then completed at the end of the  
4 investigation.

5 Q. Sorry, what was the living document, this --

6 A. The statement. It was something I could go into and  
7 update as and when required with reference to my FLO  
8 log.

9 Q. I see. So, although it is dated 9 July, do I understand  
10 correctly that you started writing the statement on  
11 9 July but completed it at some later date?

12 A. Probably, yes.

13 Q. I wonder if we can just be clear on that, Mr Lewis.  
14 I don't think we need to look at the statement on the  
15 screen in detail but if you have it open in front of you  
16 it's a chronological record of your involvement with the  
17 family of Mr Bayoh. It begins with your involvement on  
18 4 May, on the second page of this statement. The  
19 statement is only a few pages long. There is the detail  
20 of your involvement on 4 May. On the third page we see  
21 entries that relate to 5 and 6 May, 8 May, 13 and  
22 14 May. The page after that takes us from 29 May  
23 through June and all the way up to 6 July. And the  
24 final entry on the last page of the statement relates to  
25 the events of 8 July.



## Transcript of the Sheku Bayoh Inquiry

- 1 A. Yes.
- 2 Q. And the statement was written on 9 July?
- 3 A. Yes.
- 4 Q. So I am wondering whether in fact this statement is  
5 a record of your involvement up to and including 9 July?
- 6 A. It -- it could well be. It was -- maybe I had sat down  
7 on 9 July and compiled my involvement to that point with  
8 reference to the FLO log. 9 July would be a time when  
9 I just sat down to do the statement.
- 10 Q. All right. You will correct me if I am wrong but  
11 I certainly don't see any entries in the statement that  
12 go beyond the 9 July?
- 13 A. No, no.
- 14 Q. So it appears that this was a statement that you  
15 prepared on 9 July that records your involvement with  
16 Mr Bayoh's family up to 9 July?
- 17 A. Yes.
- 18 Q. But you said a moment ago you didn't prepare any further  
19 operational statements?
- 20 A. No.
- 21 Q. Although you did also mention the FLO logs?
- 22 A. Yes.
- 23 Q. We will talk about those in a little bit more detail  
24 later but should I understand that the FLO logs record  
25 your involvement with Mr Bayoh's family beyond 9 July of

## Transcript of the Sheku Bayoh Inquiry

- 1           2015?
- 2           A. Yes, yes.
- 3           Q. When you prepared that statement did you do your best to  
4           tell the truth and give an accurate account of your  
5           involvement?
- 6           A. Yes, yes.
- 7           Q. We can put that statement to one side and look at what  
8           else is in the folder. There should be two statements  
9           you have provided to this Inquiry. The first has the  
10          reference SBPI 00246.
- 11          A. Yes.
- 12          Q. And it was prepared on 25 October of 2022. So this is  
13          your statement and if we can go to the very last page,  
14          please, you will see that the statement was signed on  
15          23 January of 2023 and although your signature has been  
16          blacked out, there should be a visible signature on the  
17          hard copy in your folder?
- 18          A. Yes.
- 19          Q. If we look at the final paragraph, paragraph 43 it  
20          reads:
- 21                 "I believe the facts stated in this witness  
22                 statement are true. I understand that this statement  
23                 may form part of the evidence before the Inquiry and be  
24                 published on the Inquiry's website."
- 25          A. Yes.

## Transcript of the Sheku Bayoh Inquiry

1 Q. And you gave the statement in that knowledge that your  
2 statement would form part of the evidence before  
3 the Chair?

4 A. Yes.

5 Q. A year later you gave a second statement to the Inquiry  
6 on 24 and 25 October of 2023 and that is SBPI 00432,  
7 that should be the next document in your folder.

8 A. Yes.

9 Q. Again, if we scroll down just a little we see it is your  
10 statement taken on 24 and 25 October of last year, and  
11 again if we can go to the last page please, we see it  
12 was signed on 17 January of this year. Again, your  
13 statement -- sorry, your signature has been redacted but  
14 should be visible in the copy that you have. And the  
15 final paragraph is in identical terms to the final  
16 paragraph in your previous statement. So again you  
17 confirm that the facts stated in the witness statement  
18 are true, and you understand that the statement may form  
19 part of the evidence before the Inquiry.

20 A. Yes.

21 Q. You should also have in your folder, and we don't need  
22 to put these on the screen just yet, the FLO logs you  
23 refer to and there should be three logs there. (Pause).

24 A. Yes, that is correct.

25 Q. We will look at these logs in detail later on but the

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1 purpose of including them in your folder, Mr Lewis, is  
2 so that they are available to you if you would find it  
3 helpful to refer to your statements or to the logs at  
4 any point when you are giving your evidence. Please do  
5 so. There are certain passages that I will ask to be  
6 brought up on the screen when I want to ask you some  
7 questions. If there is anything you would like me to  
8 put up on screen, just let me know.

9 A. Okay.

10 Q. I want to begin by asking you some questions about your  
11 career and your experience. In your first Inquiry  
12 statement you explain you began your career in 1979 as  
13 cadet with Strathclyde Police Force?

14 A. Yes.

15 Q. And in 1980 you became a constable in South Lanarkshire.  
16 If you will forgive my geographical ignorance, is  
17 South Lanarkshire within what was the geographical  
18 boundaries of Strathclyde Police?

19 A. Yes, it was. Yes.

20 Q. In 1991 you explain in your statement you transferred to  
21 road policing?

22 A. Yes.

23 Q. And after ten years in road policing you were promoted  
24 to sergeant?

25 A. Yes, that is correct.

## Transcript of the Sheku Bayoh Inquiry

1 Q. You explain that there was a short stint back in  
2 divisional policing but otherwise you remained in road  
3 policing until your retirement in 2010?

4 A. Yes.

5 Q. By which time you had 30 years of Police Service. So  
6 roughly speaking 10 years in divisional policing and  
7 20 years in road policing?

8 A. Yes.

9 Q. You explain that during your time in road policing you  
10 were appointed as a senior investigating officer for  
11 road traffic deaths?

12 A. Yes.

13 Q. And you were also appointed as a family liaison officer  
14 and a family liaison co-ordinator?

15 A. Yes.

16 Q. You retired in 2010 and I wanted to ask what was your  
17 rank when you retired?

18 A. Sergeant.

19 Q. You then joined the PIRC in 2013?

20 A. Yes.

21 Q. Initially, as discussed, as an investigator and I think  
22 also as a family liaison officer?

23 A. Yes.

24 Q. You were promoted in 2018 to deputy SIO and also I think  
25 family liaison co-ordinator?

## Transcript of the Sheku Bayoh Inquiry

- 1 A. I was family liaison co-ordinator prior to that. But  
2 yes, that was predominantly my role after being  
3 promoted.
- 4 Q. When did you become a family liaison co-ordinator?
- 5 A. I had been trained within Strathclyde police as a family  
6 liaison co-ordinator and again, with PIRC I was over in  
7 Dublin for another course which effectively was  
8 a refresher course for me.
- 9 Q. So were you both a family liaison officer and family  
10 liaison co-ordinator from the point of your appointment  
11 with the PIRC?
- 12 A. Yes, I had been on those training courses within  
13 Strathclyde police.
- 14 Q. I understand that you haven't deployed as a family  
15 liaison officer since you were promoted in 2018?
- 16 A. Yes, I took on more of a co-ordination role in relation  
17 to at that time, 2015, six FLOs and then it progressed  
18 to about 12, so because my position was as a line  
19 manager I felt it was more appropriate for me to  
20 co-ordinate the FLOs within the organisation than trying  
21 to be deployed, unless it was an absolute necessity in  
22 relation to an investigation.
- 23 Q. I think you explain in your second Inquiry statement you  
24 took a step back from the deployment and you focused on  
25 the co-ordination --

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- 1 A. Yes.
- 2 Q. -- side of FLO work. We are going to discuss the role  
3 and responsibilities of a family liaison officer, or FLO  
4 for short, in some detail but I wonder as a general  
5 introduction to the subject if you could explain what  
6 a FLO is.
- 7 A. Family liaison, the officer takes the role of  
8 communication, you are the conduit between the family  
9 and the senior investigating officer of any  
10 investigation. So it's to establish the parameters of  
11 that role, and to liaise with the family and to pass  
12 information to the family, and back to the SIO. And  
13 also to engage with the family from an involvement --  
14 public -- family involvement point of view.
- 15 Q. Is there any real difference between the role of a FLO  
16 in the police and the role of a FLO in the PIRC?
- 17 A. No, it's a national course, a training course, so within  
18 the police you sometimes hear people referring to CID  
19 FLOs and road policing FLOs and divisional FLOs. There  
20 is no difference, it's the same course everybody goes on  
21 and it is -- since coming into PIRC as I say, I did the  
22 family liaison co-ordinators course, it's the same  
23 standard or accredited course you will go on. The only  
24 slight difference between ourselves and the police now  
25 is that because of -- I suggest the sort of lack of

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1 knowledge of our role within PIRC we may deploy more  
2 FLOs or FLOs on a more frequent basis than  
3 Police Scotland would do because of the public's lack of  
4 understanding of what our role is.

5 Q. I would like to ask you to look at the PIRC family  
6 liaison policy document which is PIRC 04460. Although  
7 it doesn't have a date the PIRC have confirmed in  
8 a position statement that this was in force in May of  
9 2015. If we can look at the first page it confirms it  
10 is an official PIRC document and it is headed up,  
11 "Family liaison policy". Can we look at the first page  
12 of the policy, please. The introduction begins:

13 "One of the most important considerations throughout  
14 the investigation of a death is providing support to the  
15 family of the deceased. Families should be considered  
16 as partners in an investigation and must be treated  
17 appropriately, professionally, with respect and  
18 according to their needs."

19 Would you agree with that statement?

20 A. Yes.

21 Q. Are you familiar with this policy?

22 A. Yes.

23 Q. Is it something that you had access to back in 2015?

24 A. Well, back -- as far back as 2013 I had access to a FLO  
25 policy. But yes, I am aware of that one as well.



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- 1 Q. I believe this policy actually dates to 2013 and was  
2 still in force in 2015.
- 3 A. Yes, that is correct.
- 4 Q. So it would be the same policy, I think. What is the  
5 purpose of the PIRC preparing a policy of this sort?
- 6 A. As with any policy, it's to have a standard approach  
7 to -- in relation to family liaison or in relation to  
8 any investigation as to what is expected of the FLO and  
9 the SIO and the FLO co-ordinator.
- 10 Q. Is this then a set of standards that FLOs are expected  
11 to abide by?
- 12 A. It is more of a guidance, I would say, rather than  
13 standards. It would be very difficult to put down --  
14 I think if you created standards which must be you could  
15 restrict any kind of involvement with a family, so it is  
16 a guidance as to what is expected of the FLO, and not  
17 only their selection but also what is expected of them  
18 if they are deployed after training.
- 19 Q. We do have a position statement from PIRC in which this  
20 document is described as being the standards that are  
21 expected of a FLO but you would take a slightly  
22 different view and you see this more as a guidance  
23 document?
- 24 A. Well, it is standard, it was a guidance for FLOs to do  
25 that so if that is what the organisation says, that it's

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1 standards, then yes, I would agree with that. It is  
2 something I would refer to if I needed to do so. I know  
3 it's there and I know I can refer to it if required.

4 Q. Would there be an expectation that FLOs would follow the  
5 guidance set out --

6 A. Yes, yes.

7 Q. -- in this document? Can we go to the bottom of that  
8 page, please where there is a heading, "Underpinning  
9 philosophy". Let's look at this:

10 "In the event of a death of a human being, where  
11 there is a PIRC investigation, PIRC have a positive duty  
12 to communicate effectively and inclusively with the  
13 bereaved family."

14 Can I pause there just to ask you what is your  
15 understanding of the legal basis that underpins that  
16 duty?

17 A. It is under Article 2 of the Human Rights Act whereby  
18 it's family involvement in relation to the investigation  
19 and keeping them informed and making them aware of on  
20 this occasion I think a Crown-directed investigation and  
21 what is expected of us from the Crown Office moving  
22 forward and what we can and cannot do.

23 It is very much sort of keeping the family involved  
24 in the investigation but also explaining at the same  
25 time from the very outset that because of the nature of

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1 the investigation there may well be occasions when they  
2 might ask a question but I would be unable to answer  
3 that due to -- to protect the integrity of the  
4 investigation as it progresses.

5 Q. Let's return to the screen:

6 "On most occasions this can be achieved by deploying  
7 a trained Family Liaison Officer. In discharging their  
8 responsibility for family liaison, the aims of PIRC  
9 service are:

10 "To analyse the needs, concerns and expectations of  
11 the 'family' in order to identify relevant and realistic  
12 action that should be taken, in the context of their  
13 human rights and the obligations set out this document.

14 "To work with the 'family' in order to comply with  
15 their right to receive all relevant information  
16 connected with the enquiry, subject to the needs of the  
17 investigation. To gather all information and evidence  
18 from them, which will assist the investigation, in a way  
19 which takes cognisance of their fundamental Human  
20 Rights, the right to privacy and family life.

21 "The main objectives arising from these aims are:

22 "To provide information to and signpost support for  
23 the family in a sensitive and compassionate manner in  
24 accordance with the needs of the investigation;

25 "To gather evidence and information from the family

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1 in a manner which contributes to the investigation and  
2 preserves its integrity; and

3 "To secure the confidence and trust of the family  
4 thereby enhancing their contribution to the  
5 investigation.

6 "The initial priority must be to establish  
7 communication with the family as soon as practicable in  
8 order to furnish them with any information that they  
9 require in accordance with the needs of the  
10 investigation. In supporting the family throughout the  
11 investigation, sensitivity, compassion and respect for  
12 the needs and requirements of the family must underpin  
13 the approach to gathering evidence and information."

14 Would you agree with what is set out there?

15 A. Yes.

16 Q. So the role of a FLO includes both providing information  
17 to a family and also in gathering information from the  
18 family that might be relevant to the investigation?

19 A. Yes. I think it is to establish -- although I am a FLO  
20 first and foremost, it is explained to family at the  
21 very outset that I am an investigator, and it's my job  
22 to investigate the circumstances but I have the skills  
23 as a family liaison officer, I have been trained to that  
24 standard.

25 Q. Yes, I think you say in your statement from a family

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1 liaison point of view you were an investigator first and  
2 foremost?

3 A. Yes.

4 Q. And you have the skill as a FLO. That is your second  
5 statement, paragraph 6. Indeed, the family liaison  
6 policy, if we can scroll down quickly to I think it is  
7 page 18. We see in bold and underlined:

8 "The primary function of a FLO is that of  
9 investigator."

10 A. Yes.

11 Q. Let me share with you some evidence from a police family  
12 liaison officer, Kevin Houliston. His statement is  
13 SBPI 00354. And again, it's on the theme of the  
14 functions of the FLO. Can we look at paragraphs 39 and  
15 40, please:

16 "I have been asked whether it's correct that FLOs  
17 are primarily investigators. Yes, they are primarily  
18 investigators however they serve a dual purpose in all  
19 investigations with a secondary, but equally important,  
20 role of acting as a link between the SIO and the family  
21 to provide them with relevant information.

22 "The primary one is that of an investigator. FLOs  
23 are part of the inquiry team, and they are a very  
24 important part of the inquiry team, because more often  
25 than not there is information that would, without

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1 a doubt, be relevant to the inquiry which has to be  
2 obtained from the family. On some occasions, more so  
3 than others, but there will always be information that  
4 will assist the inquiry that FLOs are able to obtain.  
5 From that regard, they are very much part of the inquiry  
6 team."

7 Would you agree with that?

8 A. Yes, I agree with that.

9 Q. I think the word that you used earlier in your evidence  
10 was a FLO is a conduit, so you are essentially passing  
11 information from the investigation to the family and  
12 obtaining information from the family and passing that  
13 back into the investigation?

14 A. Yes.

15 Q. As you say, your primary role is that of  
16 an investigator, and I wonder, in your experience do  
17 families understand that you are first and foremost  
18 an investigator?

19 A. It is certainly explained to them at the very outset  
20 what the role is or my role is. And yes, we do make it  
21 quite clear that we are investigating the circumstances  
22 and that I would be their family liaison officer, and  
23 explain, just as we discussed, how that information will  
24 be passed between us and the family.

25 Q. In your experience does it concern families that their

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1 family liaison officer is embedded within the  
2 investigation team?

3 A. From my experience, no, they understand the nature of  
4 the investigation and what our role is.

5 Q. Can we look now at another document, please, PIRC 04457.  
6 This is a guide for families on the role of the PIRC and  
7 FLOs. This was published in July of 2014. If we can  
8 look at the first page of text please. Scroll down  
9 a bit please. Keep going, please. There is a heading  
10 I am looking for called, "Who are the PIRC FLOs?"

11 Sorry, it was the wrong page reference:

12 "Who are the PIRC FLOs?"

13 "PIRC FLOs are specially trained and are part of the  
14 investigation team. FLOs are appointed to give you and  
15 your family information about the investigation. In  
16 most cases the FLO will liaise with you throughout the  
17 investigation and is your single point of contact. The  
18 FLO will ask you to nominate a family member or person  
19 to be the contact person for you/your family."

20 Scroll down a little, please:

21 "The FLO will keep you updated on the progress of  
22 the investigation; will give you as much information as  
23 possible as quickly as possible; and will try to answer  
24 your questions throughout the investigation. The FLO  
25 may also have questions for you."

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1           Would you agree with what you have read on the  
2           screen so far, Mr Lewis?

3           A.   Yes.

4           Q.   "What is their role?

5                   "The main role of the FLO is to develop a two-way  
6           flow of information between the investigation team and  
7           you and your family.

8                   "The role of the FLO may include the following:

9                   "Explaining their role to you.

10                   "Providing you with details on how you may contact  
11           them.

12                   "Passing any information provided by you to the  
13           investigation team.

14                   "Taking statements from you, family members and  
15           friends to assist the investigation.

16                   "Answering any questions which you may have about  
17           the investigation.

18                   "Updating you on the progress of the investigation.

19                   "Giving you information about other agencies which  
20           may provide support for you and your family.

21                   "Liaising with other agencies.

22                   "Should you require any further information or have  
23           any concerns you may contact your FLO."

24                   Would you agree with everything that we have seen --

25           A.   Yes.



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1 Q. -- in that document? So again, this is a document,  
2 can I assume this is the sort of document that you might  
3 be able to provide to families; it is a guide for  
4 families on the role of the PIRC and FLOs?

5 A. Yes.

6 Q. Is this something that families can access online or is  
7 something you would hand out, or possibly both?

8 A. I think they can access it online. It is certainly  
9 something we would hand out. It was actually myself  
10 that put forward this suggestion, in relation to helping  
11 families to identify the role of the FLO. That was  
12 through conversations and meetings with fellow FLOs  
13 from -- or colleagues in Ireland and Northern Ireland,  
14 so it was my idea to put that forward to the  
15 organisation to help families know the role of the  
16 family liaison officer.

17 Q. It sets out very clearly under the heading, "Who are the  
18 PIRC FLOs?", that they are specially trained and are  
19 part of the investigation team.

20 A. Yes.

21 Q. So again it is making clear that your role is that of  
22 an investigator.

23 A. Yes, it's a quick reference for any families to look at  
24 and refresh their memory, should they have any  
25 questions. We also had -- I don't know if at that time

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1 we had ... it wasn't a form, it was -- the information  
2 was compacted into the size of a credit card, which  
3 could go into somebody's wallet along with contact cards  
4 from myself or any FLO within the organisation.

5 Q. Can we bring up on screen please your second Inquiry  
6 statement and have a look at paragraph 33. You were  
7 asked about your police experience and whether it has  
8 advantages or disadvantages for your work at PIRC. You  
9 say:

10 "I think it was more of an advantage than  
11 a disadvantage because you have a knowledge of how  
12 policies and procedures work, and the practicalities of  
13 policing and the role of the police officers. You had  
14 the knowledge to go and deal with any incident, whether  
15 it was from a road policing background, a firearms  
16 background, sexual offences. We had all these skills  
17 within the organisation that we could tap into at any  
18 time ... To date I have not experienced any disadvantage  
19 of my police experience. Whilst I believe the PIRC will  
20 always need police knowledge and experience within the  
21 organisation, it is my opinion, in order to improve our  
22 independence we need staff from a non-police background  
23 to enhance our independent role. In 2013 our head of  
24 investigations ... was a female and from a non-police  
25 background."

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1           Was that Irene Scullion?

2       A.   Yes.

3       Q.   "She promoted our independence at every opportunity.  
4           When she retired from the PIRC in 2017, I feel we lost  
5           our independence within investigations and senior  
6           management."

7           Who replaced her in 2017?

8       A.   John McSporrان.

9       Q.   "A criticism of the Dame Elish report was the number of  
10          retired senior police officers in a management role  
11          within PIRC leaving the organisation open to criticism  
12          based on the danger of unconscious bias. The current  
13          situation could affect public confidence in the PIRC  
14          investigations into senior officers within  
15          Police Scotland. Since the retiral of that HOI this has  
16          not improved but has significantly worsened and is male  
17          dominated. I see that as a disadvantage to the PIRC and  
18          has hindered the progress of female staff, those from  
19          a non-police background, and those who have been through  
20          our training programme."

21          I wanted to ask some questions about this paragraph,  
22          can you explain how the current situation could affect  
23          public confidence in PIRC investigations into senior  
24          officers within Police Scotland?

25       A.   I think from -- in the past we have had investigations

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1 in relation to senior officers within Police Scotland  
2 and that was overseen and conducted by Irene Scullion  
3 and a member of -- a DSI from a non-police background,  
4 which I think is a beneficial tool within the  
5 organisation to have that, and it increases our  
6 independence.

7 I think also from the public's point of view it  
8 is -- it leaves us open to criticism, but at the same  
9 time I am confident that all the investigations that  
10 have been led in the past and up to the present time,  
11 they have been thorough, they have been effective and  
12 where criticism has been delivered to Police Scotland it  
13 is justifiable criticism. I think our website shows  
14 that, and where we have taken Police Scotland to task on  
15 certain situations and procedures.

16 Our main objective is to ensure that policies and  
17 procedures within Police Scotland are fit for purpose,  
18 and if we can improve the public's confidence or enhance  
19 the public's confidence by criticising that and making  
20 sure those policies and procedures are there for the  
21 officer on the street then that is a good outcome.

22 Q. So is your concern then the perception of independence  
23 given the number of former police officers within PIRC  
24 as an organisation?

25 A. It would be -- well, it's a criticism that I think

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1 shouldn't be there. I think again from Dame Elish,  
2 correct me if I am wrong here, but the IOPC in England  
3 and Wales is either a mixture of police and non-police  
4 background staff, senior management and her  
5 recommendation is the PIRC should move towards that  
6 situation.

7 We haven't done that, for what reason I don't know.  
8 I appreciate it would need to be a gradual change, but  
9 if we have people from a non-police background within as  
10 investigators and as deputy senior investigators, why do  
11 we not have that independence, that sounding board for  
12 want of a better phrase, to have within senior  
13 management, to be there to ensure our independence and  
14 to make sure that we are not being unconsciously biased  
15 towards any organisation, or any policing body within  
16 Scotland?

17 Q. Do you think that the make-up of PIRC could impact  
18 public confidence into the independence of  
19 the organisation when investigating deaths following  
20 police contact?

21 A. Again, I think it leaves us open to criticism,  
22 a criticism that shouldn't or doesn't need to be there.  
23 And that is for the recruitment process. Due to recent  
24 appointments, the chance of that improving in the near  
25 future, I would suggest is quite slim. From a career

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1 point of view of those people there, and it is again ...

2 if we have that mixture within the investigations and

3 the DSIs, why do we not have that at SIO and above?

4 Q. Could the make-up of the organisation in your view  
5 impact the confidence that the family of a deceased  
6 person might have that the investigation is truly  
7 independent of the police?

8 A. I think it is a challenge that is -- you are often  
9 referred to as retired police officer, I am not  
10 a retired police officer, I did serve with  
11 Strathclyde Police for 30 years but my role is a deputy  
12 senior investigator now, and I'm a family liaison  
13 officer, I've been trained as a family liaison officer,  
14 that is my role. It does -- I have had families in the  
15 past, and up to quite recently, question the fact that  
16 we're police officers, but I explained to them the  
17 independence and quite recently within investigations we  
18 have had families thank us for being there and our  
19 independence and showing -- demonstrating our  
20 independence by the quality of the report and the  
21 findings that we have had and been able to share with  
22 them.

23 Q. Can I share with you the evidence that Collette Bell  
24 gave to the Inquiry on 9 February last year, this won't  
25 come up on the screen but it's a short passage and

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1 I will read it out to you and then we will go back to  
2 what is on the screen. She was asked to explain  
3 a little bit about her concerns in connection with PIRC:

4 "Answer: I think I had lost all trust in the police  
5 at this point and I didn't really want anything to do  
6 with the police or PIRC because I thought they are all  
7 made up of ex-police officers and they are supposed to  
8 be independent, but how independent can you be if it is  
9 all ex-officers that make up the PIRC? It is not really  
10 transparent if it is the police investigating the  
11 police."

12 Do you wish to comment on that?

13 A. It is certainly -- I can't remember if she actually said  
14 anything like that towards me personally, had she done  
15 so I think I am confident that I could have allayed any  
16 of those fears. Personally speaking, as a family  
17 liaison officer I would have preferred more interaction  
18 with the immediate family and I am confident again  
19 I could have explained the circumstances. And her  
20 perception is that they are all retired police officers,  
21 that is not the case. Even back then it was not the  
22 case, so I had that ability to -- that confidence to  
23 clarify that situation.

24 Q. I am aware that you have expressed the view you would  
25 have liked to have had more contact with the family --

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1 A. Yes.

2 Q. -- and that is something we will be exploring in detail,  
3 possibly not today but possibly into the second day of  
4 your evidence. But hearing what Collette Bell had to  
5 say and knowing yourself the make-up of PIRC as  
6 an organisation, do you feel any sympathy for her  
7 position?

8 A. I understand what she is saying. But again I am  
9 confident, as I said, that I could have explained that  
10 with more interaction with herself and the rest of the  
11 family.

12 Q. Can we go back to paragraph 33 of your statement,  
13 please, we might need to scroll up a little. You  
14 mention -- sorry, down a little bit now -- the  
15 retirement of the head of investigations and you say,  
16 second bottom line:

17 "Since the retiral ... [the situation] ... has not  
18 improved but has significantly worsened and is  
19 male-dominated. I see that as a disadvantage to the  
20 PIRC and has hindered the progress of female staff,  
21 those from a non-police background and those who have  
22 been through our training programme."

23 Can you expand on that?

24 A. In what way?

25 Q. In what sense have things significantly worsened?



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1       A. Again, it is not having that -- an example I can give  
2       you is that having been a FLO co-ordinator there was  
3       a time when our FLO cadre was very much male dominated  
4       and I highlighted that in several occasions to senior  
5       management, that it is something that had to be  
6       addressed. It's something you can't address very  
7       quickly because you volunteer to be a family liaison  
8       officer, you can't be told or you should not be told you  
9       are going to be a family liaison officer. I have  
10      experience from within Strathclyde Police and within the  
11      PIRC where some people have volunteered for the course,  
12      and they have then subsequently found out it is not for  
13      them and they step away from it. That is perfectly  
14      understandable. It is a demanding role, and that  
15      example of getting that diversity, that mixture of staff  
16      is beneficial not only in that role but throughout the  
17      organisation.

18     Q. So what is it then that has significantly worsened, is  
19     it the proportion of former police officers within the  
20     organisation in general or perhaps within the more  
21     senior ranks, or is it to do with gender balance within  
22     the organisation?

23     A. Gender balance but you also have -- again, a criticism  
24     from Dame Elish was the number of senior officers,  
25     retired senior officers within management, and that is

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1 the situation at this moment in time within PIRC. It is  
2 all made up of senior officers, former senior officers  
3 within -- or former senior officers, police officers.  
4 There is -- there will always be a need for that  
5 I think, again you always need to have that  
6 understanding of police procedures at that senior level.  
7 But again, the IOPC in England and Wales don't have that  
8 and they work perfectly well, so I personally think we  
9 should have more of a mixture of female staff and staff  
10 from a non-police background.

11 Q. How has this lack of diversity, if I can call it that,  
12 hindered the progress of female staff, those from  
13 a non-police background and those who have come through  
14 the trainee programme?

15 A. Again, the line management within the investigations.  
16 Out of I think it is about 20 line managers up to and  
17 including the director of operations, only two are  
18 female.

19 Q. Let's move away from this subject and I want to ask you  
20 more questions about being a FLO in a general sense.  
21 Am I right to understand that being a FLO is not  
22 a full-time role, it's an additional responsibility that  
23 you take on as an investigator?

24 A. Yes, it was like a scene manager, somebody who is  
25 an expert in firearms or somebody who is an expert in

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1 officer safety training. You have -- you have been  
2 trained to have a skill or you have been identified and  
3 selected, and attended some form of training course to  
4 take up that role, but it is not a full-time -- you do  
5 not do family liaison all the time. From a welfare  
6 point of view that just simply wouldn't be a good idea.

7 Q. So it's an additional skill you have --

8 A. Yes.

9 Q. -- that you bring to bear in your work as  
10 an investigator?

11 A. Yes.

12 Q. Is that the case both within the police and within the  
13 PIRC, that it is not a full-time role?

14 A. Yes.

15 Q. Thinking about policing here, in what sorts of case  
16 would a FLO be deployed within the police?

17 A. The same as a PIRC FLO, it would be predominantly death  
18 investigations, whether that be a death in custody or  
19 a death following police contact as it is now referred  
20 to. But also if there was a serious incident whereby it  
21 was beneficial for -- to have a FLO in place to liaise  
22 with the family. And again, a conduit between the  
23 family and the senior investigating officer if there  
24 was ... if it wasn't a death but there was a significant  
25 amount of media interest, it would be beneficial to keep

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1 the family updated, communicating with them as much as  
2 possible.

3 Q. I was going to ask in what types of case the PIRC would  
4 deploy a FLO but you said in response to my last  
5 question it is much of a muchness as between the police  
6 and the PIRC when a FLO would be deployed?

7 A. Predominantly it is a death, we would deploy FLOs for  
8 a death. But we have deployed FLOs for circumstances  
9 I've just described whereby there has been a serious  
10 injury and it has been beneficial to have a FLO  
11 in place. Sometimes -- again, each case is looked at  
12 individually, sometimes it is good to have a FLO in  
13 there and then the job has been done and the FLO can  
14 step back from it. Or vice versa, an investigation can  
15 start, and a FLO is not required but then later on in  
16 the investigation it is established that we need that  
17 conduit between the family and the organisation.

18 Q. What do you have to do to become a FLO; is there  
19 an application process, an interview?

20 A. There is. Certainly when I -- it is still the case  
21 today, as I say you volunteer for it. When I did it, it  
22 was very much like a promotion panel, you were  
23 interviewed -- I was interviewed by somebody from --  
24 a senior officer from personnel, a senior officer from  
25 road policing at the time, and another member of staff

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1 in relation to diversity, and you were very much asked  
2 or you had to provide that you had that information or  
3 the capabilities and communication skills to get or take  
4 on that role. Once you had completed that, if you were  
5 successful you would then be allocated a family liaison  
6 officer course at that time over at the Scottish Police  
7 College, which was a five-day course.

8 Q. What skill set or personal qualities make for a good  
9 FLO?

10 A. Sometimes you need to be a good listener, good  
11 communication skills, you need to be able to speak to  
12 people. I have lost count of the amount of times where  
13 you go to get a statement from the family and they  
14 basically want to tell you about their loved one, that  
15 might take -- you might spend the whole day there and  
16 come away and not achieve what you set out to do. That  
17 is what you have to do. If they want to tell you the  
18 lifestyle of their loved one, then you do, you listen to  
19 that. That in itself is good information to receive,  
20 and you can incorporate that information into  
21 a statement at a later course, but sometimes you just  
22 need to just simply sit there and listen.

23 Amongst other things, I have been subject to verbal  
24 abuse, I've been assaulted. It is all through emotion,  
25 it is not -- there is no intent to cause me any injury

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1 but that is -- it's having that ability to step back and  
2 understand the emotions and the anger and the  
3 frustration of any family involved in that situation.

4 I think it is something you have to remember in any of  
5 these situations, it is a traumatic situation for any  
6 family, irrespective of what the circumstances have  
7 been.

8 Q. I want to ask you about the training that FLOs receive,  
9 you mentioned there being a five-day course, and the  
10 PIRC have confirmed in a position statement that all  
11 FLOs, whether they are from the police or from the PIRC,  
12 undergo the same accredited national training course?

13 A. Yes.

14 Q. That was five days, you said?

15 A. Yes.

16 Q. Is there follow-up or refresher training?

17 A. There is a -- you have a regular -- annually there is  
18 a family liaison officers conference which is held at  
19 the Scottish Police College. But also from our point of  
20 view I've been over to Dublin for similar conference  
21 days, and that is predominantly -- could be -- well, it  
22 is a training day because you will have case studies in  
23 relation to family liaison, some of the high profile  
24 investigations that we will all have seen on the news,  
25 you will have seen that on the news but the case study

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1 goes into more detail about the challenges for the  
2 family liaison, for the SIO. So that is a good training  
3 day, for want of a better word. And also you get the  
4 opportunity network with fellow colleagues from within  
5 the police and other independent investigative  
6 authorities, and with family members who have expressed  
7 their experiences, good and bad, with family liaison  
8 officers.

9 Q. So we have spoken about a family liaison officer, what  
10 then is a family liaison co-ordinator?

11 A. Predominantly it is my job as a co-ordinator just to --  
12 if we have a death investigation it is my job to select  
13 that family liaison officer and I need to be given the  
14 information or I get the information as to the brief  
15 circumstances, and depending on the circumstances of  
16 that death it is my job to select the person suitable,  
17 taking into account welfare, annual leave,  
18 the day-to-day impact on that person, and do they have  
19 the experience, the knowledge, and the ability to take  
20 on that role. Whether that be as the lead investigator  
21 or to be shadowed by a more experienced because at the  
22 end of the day the way I worked it was that when you  
23 qualified as family liaison officer you didn't  
24 automatically become a lead FLO, you would be shadowed  
25 or mentored by a more experienced family liaison officer

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1           who would be there as a -- to pass on his experience or  
2           her experience to those who were just through their  
3           course.

4           Q. What do you have to do to become a family liaison  
5           co-ordinator?

6           A. I think at the time I did it, it was a two-day course  
7           within Strathclyde Police but I believe it is now  
8           a three-day course. Again, national standard training  
9           course.

10          Q. Is being a family liaison co-ordinator a full-time role?

11          A. No, it is again another role I have within -- within  
12          Strathclyde Police and within the PIRC. So if there  
13          is -- as I say, if there is a requirement for a FLO the  
14          DSI or the senior investigator will come to me, and  
15          I will allocate that person.

16          Q. How many FLOs are there within the PIRC today?

17          A. I think there are about 11 or 12 at the moment.

18          Q. How many are female?

19          A. Five I think.

20          Q. Five out of 11?

21          A. I think we are about 50%. 50/50.

22          Q. How many are not white?

23          A. None.

24          Q. Within the cadre of investigators, how many  
25          investigators approximately are there within the PIRC?



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1 A. In total including line managers, probably about 60, 65  
2 I think.

3 Q. How many are female?

4 A. I would be guessing, I would need to sit down and look  
5 through the ...

6 Q. I am sure we can find that information elsewhere.

7 A. Yes.

8 Q. Are you able to comment on how many are not white?

9 A. Are not white? There's none.

10 Q. None. I want to ask you some questions about your  
11 experience as a FLO. When did you become a FLO?

12 A. 2001, I think. 2001/2002, around about there. It was  
13 just after the role had been created.

14 Q. And you explain in your second statement, this is  
15 paragraph 2, that this was five days at the Scottish  
16 Police College where you looked at scenarios, high  
17 profile investigations, and there were inputs from  
18 experienced officers and from families?

19 A. Yes.

20 Q. Did that initial training include any equality and  
21 diversity issues that you might encounter as a FLO?

22 A. Yes, it did.

23 Q. What did it cover?

24 A. Diversity -- I think it is now referred to as  
25 unconscious bias, I don't remember it being referred to

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1 as that back then. It might have been implicit bias but  
2 you were -- it was having an awareness of society, and  
3 those who -- different families, different backgrounds.

4 Q. So the training that you had, more than 20 years ago  
5 now, included unconscious or implicit bias training?

6 A. Yes, and also the course, as I said, another five-day  
7 course, again it was a family liaison officer/family  
8 liaison co-ordinators course over at Dublin. Same sort  
9 of standard, and you touched on case studies,  
10 Stephen Lawrence in particular was the one in Dublin.

11 Q. When was the Dublin course?

12 A. 2016, I think it was.

13 Q. So after the events of May 2015?

14 A. Yes. But that type of case study would still -- I do  
15 remember getting that type of input in my initial family  
16 liaison officers course.

17 Q. What did you learn about guarding against unconscious  
18 bias from your initial training?

19 A. You have to be open-minded because you are dealing with  
20 people from all walks of life.

21 Q. Beyond keeping an open mind, did you learn any  
22 strategies or techniques to equip yourself to avoid  
23 unconscious bias from influencing your decisions or your  
24 thoughts?

25 A. I don't remember any specific strategies but, you know,

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1           you did have scenario-based discussions as to what would  
2           you do and what was right and what was wrong. Sometimes  
3           there was no right or wrong answer, it is all about  
4           liaising with the family and the community,  
5           communicating with the family, and managing their  
6           expectations of what you are doing, so no two families  
7           are the same, some families want nothing to do with you  
8           from the very outset and then they are on the phone  
9           every single day. Some families want contact every  
10          single day. Some people don't want to know about you  
11          until you have complete the investigation. That is  
12          where your job is, is managing how the family want that  
13          and if the family decide to change their expectations or  
14          what they expect, then that has to be managed as well.

15        MS THOMSON: Sir, I am mindful that it is 11.30 and I wonder  
16          if this would be a convenient time to take the break.

17        LORD BRACADALE: Yes. We will take a 20-minute break now.

18        (11.31 am)

19                                        (A short break)

20        (11.55 am)

21        LORD BRACADALE: Ms Thomson.

22        MS THOMSON: Thank you. Before the break I was asking  
23          questions about your initial training to become a FLO  
24          with Strathclyde Police. And I wondered, following that  
25          initial five-day course, whether you had any follow-up

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1 or refresher training aside from the annual conferences  
2 that you have mentioned already?

3 A. There is no refresher training in relation to  
4 the course.

5 Q. When was it that you became a family liaison  
6 co-ordinator?

7 A. A year or couple of years after being a FLO.

8 Q. So early 2000s?

9 A. Yes, probably. 2003, maybe 2004, I can't remember  
10 exactly but round about then.

11 Q. You say in your statement that the training for that  
12 particular role was over two days?

13 A. At the time I think it was two days but it is now  
14 three days.

15 Q. What did that training cover, how did the training  
16 differ from the training to be a FLO?

17 A. You're -- it's the selection -- you're trained or you  
18 receive inputs about the selection of staff, their  
19 welfare, their wellbeing. Part of my role -- I am not  
20 their supervisor, I am their co-ordinator in relation to  
21 the FLOs, so annually it is my job to make sure that  
22 they receive vicarious trauma interviews for their  
23 wellbeing. It is my job to make sure they are not  
24 deployed on a regular basis, but I have to look at their  
25 workload, the circumstances of the deployment, are they

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1           suitable for it, have they had any bereavements within  
2           their own family, their network, all these. It is my  
3           job to liaise with that, and at least twice a year have  
4           a meeting with all the FLOs, in relation to ongoing  
5           issues or learning outcomes from their deployments.

6           Q. You retired in 2010 from the police?

7           A. Yes.

8           Q. Do you recall which month you retired?

9           A. October.

10          Q. You joined PIRC in 2013?

11          A. Yes.

12          Q. Again, what month did you join the PIRC?

13          A. I think I was offered the job at the end of February  
14             but I officially started in the beginning of March,  
15             early March, 5 March I think it was.

16          Q. So there was a gap of something in the region of two and  
17             a half years --

18          A. Yes.

19          Q. -- between you retiring from the police and taking up  
20             your position with the PIRC, initially as  
21             an investigator, FLO, and FLO co-ordinator, and then  
22             more recently as a deputy senior investigator and FLO  
23             co-ordinator?

24          A. Yes.

25          Q. So you were a FLO from the point of your appointment as

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1 an investigator with the PIRC, and I am interested no  
2 know whether you had any training or refresher training  
3 when you joined the PIRC, bearing in mind that you had  
4 been out of that role for some two and a half years?

5 A. In that time prior to the 1 April, when Police Scotland  
6 and ourselves officially became organisations, we had  
7 in-house training, scenarios, how would we respond,  
8 what -- the logistics of our response to deaths,  
9 firearms incidents, a road traffic collision, whatever  
10 it was, over that period of five/six weeks.

11 Q. Did those discussions encompass the deployment of FLOs  
12 in the event of an incident?

13 A. Yes.

14 Q. Okay. When asked in your second statement at  
15 paragraph 5 -- we don't need it on the screen  
16 thank you -- about your record of training, you said  
17 that you had a development day in September of 2015, and  
18 a five-day family liaison co-ordinators course in March  
19 of 2016 through the PIRC?

20 A. Yes.

21 Q. So that was the training that you had with the PIRC. In  
22 relation to your role as a FLO, did you receive any  
23 formal FLO-specific training beyond the scenarios and  
24 strategies that were discussed as the PIRC came into  
25 being in early 2013?

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- 1 A. In that period before 1 April?
- 2 Q. Or in the period before May 2015. Both of courses that  
3 are referenced in your statement post-date the death of  
4 Sheku Bayoh.
- 5 A. Yes.
- 6 Q. So I am interested to know whether you had any formal  
7 FLO-specific training through the PIRC between the date  
8 that you joined and Mr Bayoh's death?
- 9 A. Only the -- it would be the national FLO conference up  
10 at the Scottish Police College, the specific date  
11 I couldn't remember but that was an annual event, so we  
12 were offered spaces to attend that.
- 13 Q. So this is the annual conference you have told us about  
14 already?
- 15 A. Yes.
- 16 Q. I think you explain in your statement that PIRC FLOs  
17 were invited to go along to that course --
- 18 A. Yes.
- 19 Q. -- although it was run by Police Scotland?
- 20 A. Yes.
- 21 Q. In your statement, and the reference is paragraph 3 of  
22 your second statement, you describe implementing  
23 a mentoring scheme within the PIRC as part of your role  
24 as a family liaison co-ordinator, whereby a less  
25 experienced FLO would be deployed alongside a more

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1 experienced FLO to get on-the-job training. I wondered  
2 whether that model existed when you were in the police,  
3 did you have that opportunity to learn from more  
4 experienced colleagues?

5 A. Yes, ideally you would deploy two FLOs to a death  
6 investigation, that was twofold, it creates a situation  
7 that should a FLO go on annual leave, sickness leave,  
8 whatever it was, you had somebody else who knew and had  
9 interacted with the family, so you had a back-up  
10 effectively.

11 But part of that is that especially within PIRC we  
12 had at one end of the scale a vast amount of experience  
13 and then there is a large gap to those who have just  
14 recently been trained and had little or no experience  
15 after being trained, so I took it upon myself to  
16 identify -- as I did within Strathclyde Police was that  
17 a newly trained FLO would not be deployed as a lead  
18 investigator or a lead FLO, he or she would have  
19 somebody of more experience to be there to shadow and to  
20 mentor them. Then that would happen until I was happy  
21 that that person who was receiving feedback, that that  
22 person was capable of dealing with the role themselves  
23 as lead, and by doing so I was increasing the knowledge  
24 and the experience of those who had just been trained,  
25 to give them more experience but also maintaining the



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1           experience and the skills of those who were experienced  
2           by shadowing and mentoring.

3           Q. Can we bring up your second Inquiry statement, please,  
4           and look at paragraphs 24 and 26. You have mentioned  
5           this in passing in your evidence already but I would  
6           like to ask you more questions about this, so if we can  
7           begin by looking at paragraph 24 where you explain:

8                     "Another responsibility [you] had was, especially  
9                     when our numbers increased to about 12 FLOs ... two or  
10                    three times a year -- no less than twice a year -- [you]  
11                    would have a meeting off-site with all the FLOs, and  
12                    discuss any kind of learning outcomes from any  
13                    deployment, any updates in relation to policy. It was  
14                    an opportunity for people to speak freely as to any  
15                    issues they may or may not have in relation to  
16                    deployments. That was my job to get all that  
17                    information and then feed it back into senior  
18                    management. It was my job to co-ordinate any kind of  
19                    issues, identify any learning outcome and make sure  
20                    that~..."

21                    Sorry, if you could scroll please:

22                    "... we moved forward and improved the service that  
23                    we have within the organisation. These meetings  
24                    probably started about 2014 when our FLO numbers  
25                    increased from three to six."

## Transcript of the Sheku Bayoh Inquiry

1           I wanted to ask you about this. Did you find these  
2 meetings to be helpful?

3       A. Yes.

4       Q. Can you give examples of the sorts of learning outcomes  
5 that were discussed at these meetings?

6       A. We did -- initially when there was only three of us it  
7 was more of an informal meeting because there was only  
8 three of us, and likewise when we -- the numbers  
9 increased to six, again it would be more informal.  
10 However, when the numbers increased to about 12 it was  
11 actually a colleague of mine who suggested minutes, we  
12 kept minutes, which we did do, and it was a good idea.  
13 But something that jumps to the top of my head as  
14 an example is a FLO who had no experience of  
15 repatriating a deceased to another country or back down  
16 England, had no experience of that and had no knowledge,  
17 as did the majority of FLOs at that time, so that was  
18 a good learning experience for everybody. I had  
19 experience in that but I used that as an opportunity for  
20 him to express his learning outcomes and what he had  
21 learnt from it and what he didn't know prior to that and  
22 where to tap into that information.

23       Q. How is this learning then cascaded?

24       A. To the FLOs there at that time? Not everybody could  
25 make it but the majority of the time all the FLOs were

## Transcript of the Sheku Bayoh Inquiry

1           there, and those who weren't, I would speak to them in  
2           relation to that.  If I knew it was somebody who was --  
3           who didn't have that experience, I would pass on that  
4           information.  And also things like if the FLO policy was  
5           being updated or looked at or ... whatever stage it was,  
6           then I would keep them aware of where it was and what  
7           stage it was at.

8           Q.  If we could go back up just a little bit, please.  You  
9           say it was your job to get all that information and then  
10          feed it back into senior management, this being the  
11          learning outcomes and issues that FLOs had had in  
12          relation to deployments.  What was the process by which  
13          you fed that information back into the organisation?

14          A.  I would speak to the SIs or as an investigator it would  
15          be the DSIs, the senior investigators and the head of  
16          investigations and I would make them aware of issues --  
17          again, another one that sort of jumps to mind is FLOs  
18          who felt they were not being given the information to do  
19          their job, and I would highlight that, and what the  
20          processes was.  Unfortunately it's nothing new, since  
21          I have been doing it since 2004 the same issues are  
22          still there, you continually have to give certain people  
23          or managers a nudge as to what should be happening and  
24          how the -- what the process is in relation to deployment  
25          of FLOs and what they should be getting told and how the

## Transcript of the Sheku Bayoh Inquiry

1           important the role is in relation to any investigation.

2           Q. You say that some of the same issues are still recurring

3           20 years later?

4           A. From a personal point of view, yes.

5           Q. Do you continue to co-ordinate these meetings?

6           A. No, I stood back from the role in May last year.

7           Q. Has someone else taken the mantle?

8           A. Yes.

9           Q. So these meetings continue to happen, it is just

10          no longer you who co-ordinates them?

11          A. I am not aware of what the situation is at the moment.

12          I certainly haven't heard of any FLOs going for meetings

13          in relation to that.

14          Q. When did you stop doing this personally?

15          A. May of last year.

16          Q. May of last year?

17          A. Yes.

18          Q. So you are not aware of any of these meetings taking

19          place since you stepped down --

20          A. No, there's --

21          Q. -- in May of last year?

22          A. Although I stepped down from the role, I am still

23          a trained family liaison officer. I just very much

24          stepped away from family liaison co-ordination. So if

25          I was required or there was a need for me to step in,

## Transcript of the Sheku Bayoh Inquiry

1 even to assist the current FLO co-ordinators, I would be  
2 more than happy to do that because I have the training  
3 and experience and the knowledge. Irrespective of what  
4 organisation you are in, if you have that knowledge  
5 there you must tap into it to use for the benefit of the  
6 investigation and for the families, so~... But  
7 officially I am not the FLO co-ordinator.

8 Q. But since May of 2023 as a FLO you haven't been invited  
9 to go along to one of these meetings?

10 A. No, and there's a FLO in my team and he hasn't been  
11 invited to -- I am not aware of him -- or he has not  
12 attended any meetings.

13 Q. Do you have any knowledge of a meeting having taken  
14 place since you stepped down in May of last year?

15 A. Not to my knowledge, no.

16 Q. You were asked at paragraph 7 of this statement,  
17 although we don't need to look at it, how many times you  
18 were deployed as a FLO during your career and you said  
19 into the hundreds. Are you able to say how many cases  
20 you have been deployed in that concerned a death  
21 following police contact?

22 A. How many deaths following police contact?

23 Q. Yes.

24 A. I couldn't put a number on it. I don't think it is  
25 healthy to keep that sort of stats personally, I am sure

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1 if I went back over the years somebody somewhere would  
2 be able to find it. An example I can give you is that  
3 my route to work is 40 minutes and I pass the locations  
4 of 12 road death investigations every day that I have  
5 been involved in. So that gives you an idea as to the  
6 frequency that I have been involved, either as  
7 a reporting officer, a family liaison officer or  
8 a senior investigating officer. So if somebody is  
9 keeping -- my personal opinion is if somebody is keeping  
10 a tally of the amount of deployments they had, that  
11 would be a cause of concern to me.

12 Q. Are you able to help us understand -- if there is  
13 a distinction to be drawn between a death following  
14 police contact and a death in police custody, are you  
15 able to say how many death in police custody cases you  
16 have been involved with?

17 A. No, I couldn't put a number -- I wouldn't put -- be able  
18 to put a number on that, but it is over -- if you take  
19 into account 30 years with Strathclyde Police and  
20 11 years, almost 11 years exactly, with the PIRC it will  
21 be into the hundreds. Again, either as the reporting  
22 officer, family liaison officer or a senior  
23 investigating officer.

24 Q. Can we look at your first statement please for a moment.  
25 If we can find paragraph 16 of that statement, please.

## Transcript of the Sheku Bayoh Inquiry

1 We have spoken at some length about your training and  
2 your experience, and you were asked if as at  
3 3 May 2015 -- sorry, this is not the paragraph I am  
4 looking for. Bear with me just a moment. (Pause).  
5 I have possibly given the wrong statement reference.  
6 Sorry, my mistake, it is actually in your second  
7 statement not your first statement. Right paragraph,  
8 wrong statement.

9 While that is being brought up you were asked the  
10 question:

11 "Did you feel adequately trained and experienced to  
12 carry out your role as at May of 2015?"

13 Here we are, we have it now. You said:

14 "Yes, I had no issues at all, I have liaised with  
15 families from all backgrounds through society, race  
16 religion gender. Unfortunately I have had to explain to  
17 families information that they were not aware about  
18 their loved one, I have many years of liaising with  
19 families from all sorts of backgrounds, all sorts of  
20 areas within society. So yes, in my opinion I was  
21 prepared for dealing with the incident with Sheku Bayoh  
22 on 3 May."

23 So you felt that you had the skill set, the training  
24 and the experience to take on the role of FLO in May of  
25 2015?

## Transcript of the Sheku Bayoh Inquiry

1 A. Yes.

2 Q. I want to ask you some questions now about the on call  
3 arrangements back in 2015. We know that you were  
4 appointed as FLO at the 9 o'clock briefing on  
5 4 May 2015?

6 A. Yes.

7 Q. Mr Bayoh died shortly after 9 o'clock on the morning of  
8 the 3rd so your appointment came more or less 24 hours  
9 after his death?

10 A. Yes.

11 Q. We understand that you were not on call over the  
12 weekend?

13 A. That is correct.

14 Q. How many FLOs did PIRC have back in May of 2015?

15 A. Six.

16 Q. Six.

17 A. Including myself.

18 Q. Back then how many were female of those six?

19 A. One I think. Yes, one.

20 Q. Were any not white?

21 A. No.

22 Q. Would you have expected there to be a PIRC FLO on call  
23 over the weekend?

24 A. At that time -- well, the numbers of FLOs -- again, it's  
25 a welfare -- there is an on-call rota which at the



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1 moment because of the number of teams within the  
2 organisation runs about every nine weeks you are on  
3 call. Now I would suggest probably just about every  
4 team has a FLO on their team. Is it a specific  
5 requirement or a need? No, I don't think so, it never  
6 has been. Having been promoted to DSI I have had  
7 numerous needs to -- I have been called out on numerous  
8 occasions and if I didn't have a FLO it was a phone  
9 call, either by myself or a member of my team was  
10 instructed to call out additional staff and if it was  
11 a FLO or a scene manager that was their job.

12 Q. So you are referring to additional staff who were not on  
13 call but would be contacted and asked if they could be  
14 recalled to duty?

15 A. Yes, it could -- it was always a -- it was a job -- my  
16 personal opinion, it was probably a job for one of  
17 the investigators to sit down, if I needed that  
18 resource. But as I say at that time there was six of  
19 us, so again from welfare point of view you would have  
20 every six weeks potentially and if annual leave kicked  
21 in or somebody was sick leave you could potentially have  
22 a FLO on call every single week which, from their  
23 welfare and family point of view, I didn't think that  
24 was an acceptable rota.

25 Q. But you would nonetheless have expected the SI to have

## Transcript of the Sheku Bayoh Inquiry

1           made contact with FLOs who were not on call if there was  
2           a need for a FLO to be deployed over a weekend or out of  
3           hours?

4           A. Yes. Again, like myself, if I needed a FLO and I didn't  
5           have one on the team then it's a phone call out of now  
6           12, and I would be confident I would get a FLO.

7           Q. Can we bring up your second Inquiry statement again  
8           please and look at paragraph 45, which confirms I think  
9           what you have just said in your evidence. Bottom half  
10          of that paragraph:

11                 "In my experience when there has not been a FLO or  
12                 scene manager in the on call team ..."

13                 You explained earlier in your evidence that scene  
14                 manager was another specialism, you are first and  
15                 foremost an investigator but you could also be a scene  
16                 manager:

17                 "In my experience when there has not been a FLO or  
18                 scene manager in the on call team, a telephone call to  
19                 a suitably qualified member of staff resolves that  
20                 situation and those colleagues can turn out for the  
21                 investigation."

22                 Have you yourself in your role as a FLO ever been  
23                 contacted over the weekend when you have not been on  
24                 call and asked if you could deploy as a FLO?

25           A. Yes.

## Transcript of the Sheku Bayoh Inquiry

1 Q. How many times has that happened?

2 A. Over 11 years probably into double figures. I -- again,  
3 it's something -- some people like to keep that sort of  
4 tally, I don't.

5 Q. It's just to have a ballpark and an idea of whether we  
6 are talking about something that is exceptional or  
7 something that happens routinely.

8 A. It is -- no, it's not routinely. It depends on the  
9 circumstances.

10 Q. On the occasions you were called, were you able to  
11 recall yourself to duty and be deployed?

12 A. Yes.

13 Q. On every occasion?

14 A. Yes.

15 Q. Can we look at paragraph 46, please. This I think is  
16 you speaking with your senior investigating or your  
17 deputy senior investigator's hat on here:

18 "I have been asked if that means if a death in  
19 custody or following police contact occurred outside of  
20 working hours, that if I were the on-call individual,  
21 I would be thinking, 'Do I have any FLOs that are on  
22 call at the moment or is there anyone I can contact?'

23 Yes. You get the initial briefing from Police Scotland  
24 with the circumstances. Sometimes it is very limited as  
25 to what you do know. If there is a death following

## Transcript of the Sheku Bayoh Inquiry

1 police contact or a death in custody, you are thinking  
2 about a FLO, 'Do I need a FLO? Do I need FLO right here  
3 and now? Do I need a scene manager?' I have been there  
4 where I have had no FLO, no scene managers, so I will  
5 telephone these people out or get a member of staff to  
6 phone people out on my behalf. To a certain extent,  
7 when you get an initial phone call, from a practical  
8 point of view, Police Scotland invariably will have  
9 a Gold Group meeting to as to how they are going to deal  
10 with the incident and respond. I look upon that time as  
11 a good opportunity to assess, what do I need to respond  
12 to the incident and make those phone calls, so that when  
13 I or anybody from senior management is sitting in on  
14 that Gold Group meeting, I know that there resources are  
15 attending or available to me to deal with the incident.  
16 It is a lot easier to scale down rather than try to  
17 scale up. Every single incident has to be looked at on  
18 an individual basis."

19 Here you are sharing your experience as being  
20 a deputy senior investigator, I think, and one who is  
21 potentially on call over a weekend?

22 A. Yes.

23 Q. There is an incident. You need a FLO, or potentially  
24 a scene manager, and you are explaining that it would be  
25 your practice, if you have assessed that you need that

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1 person right here, right now, you would go through the  
2 list of people who were not on call but held the  
3 relevant skill set?

4 A. Yes.

5 Q. And you would phone around until you got someone?

6 A. Yes. But it is not specifically related to family  
7 liaison officers or scene managers. If there was  
8 a firearms incident there are staff within the  
9 organisation who have a firearms training background,  
10 I would be looking for one of them to turn out to assist  
11 with the processes that Police Scotland have to adhere  
12 to. So it's not limited to FLOs, it is a case of  
13 assessing what has happened and what do I need to do my  
14 job.

15 Q. So you are looking at what specialisms you need?

16 A. If needs be yes.

17 Q. A FLO could be one?

18 A. Yes.

19 Q. A scene manager could be another, firearms might be  
20 a third?

21 A. Yes.

22 Q. Can we look at paragraph 44, please. Here you were  
23 asked if you were ever contacted out of hours when you  
24 were not on call to assist with an investigation. And  
25 we have discussed this already, you say:

## Transcript of the Sheku Bayoh Inquiry

1           "Every time I have been contacted, I have turned  
2 out. That weekend~..."

3           I think you are referring here to the weekend of  
4 Sheku Bayoh's death:

5           "That weekend I was busy from a personal point of  
6 view, but it is not the first time that has happened.  
7 Whether I am on or off call, I have turned out for  
8 investigations, so I see no reason why I would not have  
9 turned out had I been contacted."

10          So should the Chair understand that if you had been  
11 called on Sunday, 3 May of 2015 and asked to deploy as  
12 a FLO, you would have been willing to do so?

13       A. Yes, I know exactly what I was doing that weekend and  
14 I was at home so I could easily have turned out, yes.

15       Q. Were you called?

16       A. No.

17       Q. Are you surprised you weren't called?

18       A. I wasn't aware -- I wasn't paying attention if there was  
19 anything on the news at that time, I wasn't paying  
20 attention to what was going on. To be quite honest we  
21 were in the middle of building a house, so that was my  
22 priority that weekend. So -- but again, had I been  
23 given the phone call yes, I would have turned out.

24       Q. The following day when you got to the office and found  
25 out what had happened the previous day, were you

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- 1 surprised that no one had tried to get in touch with  
2 you?
- 3 A. I don't think I was surprised, I was anticipating a FLO  
4 deployment in relation to the circumstances.
- 5 Q. Did PIRC have a number to contact you on when you were  
6 off duty?
- 7 A. Yes, we have a work mobile and obviously a personal  
8 mobile and a landline to the house, so there is a list  
9 of all contact numbers for staff within the -- within  
10 investigations.
- 11 Q. If you had been contacted on 3 May, how quickly could  
12 you have deployed? How quickly could you have got  
13 yourself to Kirkcaldy?
- 14 A. Abiding by the speed limits, an hour. 40 minutes to  
15 an hour. But ... to get to the office is 35 minutes on  
16 a good day, 35 minutes/40 minutes for me to get there so  
17 I would have been at the office within the hour, as  
18 I have done in the past.
- 19 Q. Sorry, when you say "the office" --
- 20 A. Hamilton.
- 21 Q. -- is that the PIRC office in Hamilton?
- 22 A. Yes.
- 23 Q. But if you had been required to make your way to  
24 Kirkcaldy, where things were happening, how quickly  
25 could you have got there?

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1       A. I would -- again, I would need to go to the office to  
2       uplift a company car and then to Kirkcaldy, so best case  
3       scenario maybe just over a couple of hours, two and  
4       a half hours. I think it's about an hour and a bit from  
5       the office to Kirkcaldy.

6       Q. I see, I understand. So you would have had to go to the  
7       office first --

8       A. Yes.

9       Q. -- to collect a company car. Would you have had to do  
10      anything else to prepare yourself for the deployment or  
11      would you only be going into Hamilton to uplift the car?

12     A. I would be expecting -- I would either have received  
13      some sort of briefing over the phone as to what was  
14      expected of me or I'd have received a briefing at the  
15      office. Or again, if it was a case of staff had gone to  
16      Kirkcaldy ahead of me I would expect on my arrival at  
17      Kirkcaldy some sort of briefing either from PIRC staff  
18      or from police officers involved with contacting the  
19      family.

20     Q. We heard some evidence yesterday from Keith Harrower  
21      about the need for a FLO to be thoroughly briefed before  
22      being deployed but in terms of the practicalities of  
23      making yourself available for the deployment, beyond  
24      getting to Hamilton to uplift a company car, was there  
25      anything else you would have had to do? Was there any



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1 sort of kit you need to take or was it just the car that  
2 you needed to collect?

3 A. I would have my own -- well, statement papers, the PIRC  
4 leaflets that we have discussed before, I would have  
5 a number of them, contact cards. That is all I would  
6 need to make contact with the family, I don't need any  
7 specialist equipment to deal with that.

8 Q. And the leaflets and contact cards, are they things you  
9 keep at home or are they all in the office?

10 A. I have got them in my bag. I think I have got them in  
11 my bag today, so I have always got them.

12 Q. So the only thing you would have needed from Hamilton  
13 was the company car?

14 A. Company car and either a briefing there or, as I say, at  
15 Kirkcaldy Police Office.

16 Q. Would there have been a need for the company car, would  
17 it have been possible for you to have taken your own car  
18 and made your way directly to Kirkcaldy, or would that  
19 be frowned upon for one reason or another?

20 A. It is not frowned upon, some people do have the  
21 insurance to cover that. I don't.

22 Q. So there would be a legal requirement, if you like to --

23 A. A legal requirement --

24 Q. -- pick up the company car. And you said it would have  
25 taken I think you said 35/40 minutes to get to Hamilton.

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- 1 A. Yes.
- 2 Q. Collect the car, and then from Hamilton to Kirkcaldy  
3 would take roughly how long?
- 4 A. I think it's about an hour, an hour and 15 minutes.
- 5 Q. So all in all, about two hours?
- 6 A. Two, two and a half hours, yes.
- 7 Q. Two to two and a half hours from the point of the phone  
8 call, if the phone call had come?
- 9 A. Yes, that is me obviously getting ready, getting out,  
10 getting suited and booted, so to speak, and presentable  
11 to the family. And getting there and picking up a car  
12 and getting on the road.
- 13 Q. Sure. There would of course have required to have been  
14 time for the briefing and so on but in terms of the  
15 physical logistics on the ground, if you like, it would  
16 have taken you about two to two and a half hours from  
17 the point of receiving a call to get yourself to  
18 Kirkcaldy Police Office --
- 19 A. Yes.
- 20 Q. -- had you been requested to deploy.
- 21 I would like to ask you in a moment to look at the  
22 statement of retired Chief Superintendent Garry McEwan.  
23 It's SBPI 00258. While that is coming up on the screen,  
24 sorry I am going to go back and just ask you another  
25 question in relation to deployment. If you had been

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1           called later on if the day, let's say after 8 o'clock,  
2           8.15 in the evening, would you still have been in  
3           a position to deploy?

4           A.  It -- again, it is the family's wishes.  So if the  
5           family -- you know, I know Keith Harrower was there with  
6           I think Alex McGuire speaking to the family so if the  
7           family wanted to speak to a family liaison officer, even  
8           if that was just by phone call to explain -- identify  
9           myself and provide contact details, I could have done  
10          that.  If the family -- and this has happened to me  
11          before at that sort of time of night, the family do want  
12          to speak to me and I have attended and it has been late  
13          at night, early hours of the morning and to explain that  
14          it is -- to be quite clear that sort of contact is  
15          really just a first contact: here's my contact details  
16          here's what I can do.  I think I said to Ade at the time  
17          I did make contact that the company phone would be on  
18          from 8 o'clock in the morning to 10 o'clock at night,  
19          that doesn't mean to say I was going to answer the phone  
20          at 10 o'clock at night but by all means leave  
21          a voicemail.  So that contact -- I could have  
22          established that contact in that initial phone call if  
23          that was required.  If the family had wanted it speak to  
24          me at that time I would have explained to them this is  
25          how long it is going to take me to get there, and

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- 1 I would have attended, yes.
- 2 Q. So if you had been called in the evening of the 3rd, say  
3 around 8.15, you would have been willing and able to  
4 deploy?
- 5 A. Yes.
- 6 Q. That could have been done in one of two ways: you could  
7 have made yourself physically available to meet with the  
8 family, allowing for the fact that it would have taken  
9 two to two and a half hours to get to Kirkcaldy, and  
10 then there would have been the requirement for a  
11 briefing?
- 12 A. Yes.
- 13 Q. But you have also suggested an alternative is you could  
14 have made contact with the family by phone?
- 15 A. Yes.
- 16 Q. Presumably after having had a briefing by telephone  
17 yourself?
- 18 A. Yes, I would need information, some sort of information  
19 depending -- even if it was very limited information  
20 I would still need that, and if -- if again in the past  
21 where FLOs -- Police Scotland FLOs have been deployed,  
22 I would be needing to speak to them before I spoke to  
23 the family.
- 24 Q. I was going to ask you to look at the statement of  
25 retired Chief Superintendent Garry McEwan SBPI 00258.

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1 He was the local policing commander for Fife on 3 May  
2 and Silver Command with responsibility for community  
3 impact after the critical incident was declared.

4 He gave evidence that he went to visit Mr Bayoh's  
5 family on the evening of 3 May, and we are going to talk  
6 about that in due course. But in his statement he  
7 explains the background to him making the decision to go  
8 to visit the family and that was at paragraphs 86 and  
9 87.

10 I am going to read these out and invite your comment  
11 on certain things that were said by Mr McEwan:

12 "The background to this is important, because by the  
13 time I got involved with the family directly there was  
14 already a great deal of anger and upset. PIRC were  
15 responsible for family liaison. My point of contention  
16 in this case is that they weren't dealing with it  
17 properly. I felt like I needed to see the family  
18 because it wasn't at the forefront of PIRC's mind. On  
19 the day in question they didn't have the FLOs out, they  
20 weren't even on duty. That wasn't good enough.

21 I raised that a couple of times directly with PIRC.

22 Their recommendation was 'it is fine we'll see them  
23 tomorrow'. I disagreed. I said we can't leave the  
24 family overnight. They needed to be briefed and made  
25 aware. It was wholly inappropriate."

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1           Can I invite your comment on what he says there, and  
2           in particular his statement that:

3           "On the day in question [PIRC] didn't have the FLOs  
4           out, they weren't even on duty. That wasn't good  
5           enough."

6           A. I think Mr McEwan at that time lacked enough knowledge  
7           about what we could or could not do. I think from  
8           a personal point of view if I was the only person who  
9           could have turned out as a FLO or as an investigator  
10          I could have directed Police Scotland as to what to do  
11          until the team had arrived. So I would suggest he has  
12          a lack of knowledge at that time of what our  
13          organisation could do and was capable of.

14          We work from Hamilton, we cover the whole of  
15          Scotland for all policing bodies within Scotland so the  
16          logistics of that is discussed. From Keith Harrower's  
17          point of view I think he did the right thing by going to  
18          speak to the family -- I can't remember what time of the  
19          day it was, and the timeline as to whether that was the  
20          appropriate time or not, but he did go and speak to  
21          them, and my understanding is he told them that as a FLO  
22          we would be in contact on Monday. So ... I think he is  
23          misinformed to be honest.

24          Q. Let's look at paragraph 87 too:

25          "PIRC couldn't muster FLOs and said they couldn't

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1           deploy until the following day which I thought was  
2           wholly unacceptable. I can't remember which PIRC  
3           officer did this. Keith Harrower was my main point of  
4           contact in the early stages so I'm guessing it was  
5           probably Keith that told me that. PIRC weren't keen on  
6           deploying Police Scotland FLOs. That was their decision  
7           to make. I understood that and why they made that  
8           decision. It's not good practice to have one FLO on the  
9           Saturday and another on the Sunday. The preferred model  
10          is to have an agreed FLO and have them right in from the  
11          off. That provides consistency and builds trust. The  
12          PIRC preference was to have one on the following day.  
13          For me, waiting 24 hours before the family had been  
14          given a thorough proper update on the circumstances was  
15          inappropriate. If it was my family and there was  
16          concern about the circumstances, and I wasn't being told  
17          for 24 hours it would be devastating."

18                 Again, can I just invite your comment on that  
19          paragraph in general terms and then there are one or two  
20          passages I would like to seek your specific comment on.

- 21          A. From Monday morning when I arrived at the office my  
22          understanding was that Police Scotland FLOs had been  
23          deployed, and that it was Mr McEwan who cancelled PIRC  
24          FLOs. His rationale for that I am not aware of, I think  
25          I had a conversation -- it was a question I asked why

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1           they had been stood down, and I am sure Keith told me it  
2           was Mr McEwan that had stood them down. The rationale  
3           for that I don't understand.

4           Again, from experience both within  
5           Strathclyde Police and as within the PIRC, taking into  
6           account the locality, or where this incident happened  
7           and the locality of family home addresses, what was of  
8           paramount importance from Police Scotland's point of  
9           view is the delivery of the death message, and me  
10          personally, I would have had FLOs in very, very quickly  
11          after a proper briefing of the full circumstances.

12          But the death message always has been and always  
13          will be -- will lie with Police Scotland. It is  
14          something that was of paramount importance to me as  
15          an SIO within road policing, and I have experience of  
16          dealing with deaths at the family's -- effectively the  
17          road end, so the importance of getting that death  
18          message to the family closely followed by family liaison  
19          officers is of paramount importance.

20          Q. Can I just clarify something with you please, Mr Lewis.  
21          You said, "Speaking personally I would have had FLOs in  
22          very quickly". When you make that statement are you  
23          wearing your policing hat or your PIRC hat?

24          A. No, it's a -- you want -- there is feedback again from  
25          courses over the years, family feedback is that



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1 delivering the death message, it should be somebody who  
2 is -- it's not a FLO, it's not going to be their FLOs  
3 because the family feedback has been that every time the  
4 FLOs turn up all they see is the person who delivered  
5 the death message, the message that has destroyed their  
6 world. So it has been taken on board that ideally you  
7 would like somebody who has been properly selected and  
8 given a proper briefing in relation to it, to deliver  
9 a death message, with the opportunity to either provide  
10 details of a contact officer or somebody within  
11 management within the police or within PIRC, closely  
12 followed by somebody who is going to contact you in  
13 relation to family liaison. So what Keith did on that  
14 day, he went and visited the family, he probably didn't  
15 know who would or would not be the FLO on the Monday but  
16 there would have been a FLO in contact that day.

17 Q. At the beginning of that paragraph Mr McEwan says:

18 "PIRC couldn't muster FLOs and said they couldn't  
19 deploy until the follow day which I thought was wholly  
20 unacceptable."

21 Can I invite your comment on that?

22 A. Again, that is obviously a conversation he has had with  
23 Keith. That is his opinion. But as I say -- all I can  
24 say is had I been phoned that day, yes, I could have  
25 turned out.

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1 Q. Further down:

2 "It is not good practice to have one FLO on the  
3 Saturday and another on the Sunday. The preferred model  
4 is to have an agreed FLO and have them right in from the  
5 off. That provides consistency and builds trust."

6 Can I invite your comment on that?

7 A. I don't know Mr McEwan's training, whether he is trained  
8 as family liaison officer but I agree certainly I don't  
9 think anyone within PIRC, any line manager at that time  
10 and even certainly to this day would deploy a FLO one  
11 day and then deploy another FLO the following day. That  
12 just wouldn't happen. I could see the family being  
13 provided with a contact name and phone number initially,  
14 if that would be Keith Harrower or somebody else within  
15 the organisation on this occasion, that would be  
16 acceptable. With the understanding that the following  
17 day a familiar family liaison officer would be  
18 appointed.

19 LORD BRACADALE: Can I just understand what you are saying,  
20 Mr Lewis. Are you saying that the Police Scotland FLOs  
21 should not have been even contemplated for deployment?

22 A. No, no I am not saying that at all, my Lord. It's  
23 a death following police -- or a death in custody so you  
24 would have expected FLOs to have deployed.

25 LORD BRACADALE: You would expect Police Scotland FLOs to be

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1           deployed?

2           A.   Yes.

3           LORD BRACADALE:   Thank you.

4           MS THOMSON:   Mr Lewis, we have looked at Garry McEwan's  
5                       position as set out in his Inquiry statement, which was  
6                       that PIRC were responsible for family liaison, couldn't  
7                       muster, couldn't deploy and that was wholly  
8                       unacceptable. I would like now to share with you what  
9                       Mr Harrower has said over the last day or so in his  
10                      evidence. This won't come on the screen because it is  
11                      from the transcript of the evidence but I will read it  
12                      out to you. In his evidence he was taken to one of his  
13                      Inquiry statements, and read a paragraph from his  
14                      statement:

15                     "In a PIRC investigation there would be a firm  
16                     expectation that Police Scotland family liaison officers  
17                     were deployed. Then if there was a need for PIRC FLOs  
18                     to be deployed then that would potentially be a day or  
19                     two after. I can't be more specific than that because  
20                     it will depend on the circumstances and a lot of  
21                     communication and dialogue would need to take place  
22                     between the PIRC-appointed FLOs and the Police Scotland  
23                     FLOs but a definite expectation that Police Scotland  
24                     FLOs would be deployed first."

25                     And senior counsel said:

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1           "Question: You seem to be saying here in your  
2 Inquiry statement that there was a firm expectation,  
3 a definite expectation on the part of PIRC, on the part  
4 of you, that the Police Scotland FLOs would be deployed  
5 initially?

6           And he said in his evidence:

7           "Answer: At that time yes."

8           Can I invite your comment on that? You will  
9 appreciate the tension between what Mr McEwan is saying  
10 in his Inquiry statement and the evidence that  
11 Mr Harrower gave over the last couple of days.

12          Can I invite your comment on what he said in his  
13 evidence?

14          A. I think I understand what you are saying. But our role  
15 is to investigate Police Scotland and the policies and  
16 procedures and the actions of the officers on that day  
17 at all levels. So Police Scotland, irrespective of our  
18 role, have a duty to preserve evidence and to continue  
19 with that enquiry, that investigation, as per their  
20 procedures.

21          So until we have Crown instruction all these  
22 types -- death in custody, death following police  
23 contact, a serious incident involving the police, as it  
24 always has been it's the police officers' or police's  
25 job to preserve that evidence and to maintain their

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1 normal policies and procedures, in consultation with  
2 ourselves either by phone call or through Gold Group  
3 meetings now.

4 But, you know, this happened in Kirkcaldy, it  
5 doesn't really matter where it happened in the country  
6 you can't just sit back and say: well, PIRC are  
7 involved, and (inaudible) the death message just needs  
8 to wait. It doesn't. It needs to be delivered. You  
9 need to look at deployment of FLOs now. You could look  
10 at is there a need for the FLOs be to there, there and  
11 then or continue that process but you don't hold back on  
12 what you should be doing, just because the PIRC are  
13 involved.

14 Q. If I can return to the evidence Mr Harrower gave  
15 yesterday, I will repeat a little bit for the context of  
16 what comes next:

17 "Question: You seem to be saying in your Inquiry  
18 statement that there was a firm expectation, definite  
19 expectation on the part of the PIRC that  
20 the Police Scotland FLOs would be deployed initially?

21 "Answer: At that time, yes."

22 That is were I stopped and invited your comment but  
23 I would like to pick up there:

24 "Answer: That has changed slightly. But it still  
25 occurs that Police Scotland FLOs are deployed at the

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1           outset of a critical incident, not all the time but it  
2           does still happen regularly."

3           "Question: Can you explain to what extent it has  
4           changed?

5           "Answer: There will be occasions, depending on the  
6           circumstances, and geographically where the incident is.  
7           I'm aware that FLOs from the PIRC side have been  
8           deployed from the outset but I don't know on how many  
9           occasions that been. But certainly at that time that  
10          was the normal process, that the Police Scotland FLOs  
11          would be deployed initially and then subsequently there  
12          would be a decision made whether PIRC FLOs were required  
13          and they would get a detailed briefing and handover from  
14          Police Scotland formally to the family, to then take on  
15          that role for the full extent of the investigation."

16          Can I invite your comment on that. How does that  
17          evidence fit with your understanding of the procedures  
18          that were in place in 2015?

19          A. At that time, yes, Police Scotland did deploy FLOs.

20          I think it is fair to say that since then and now, and  
21          over the years the lines of communication have increased  
22          significantly and our notification of these instances.

23          I have had two or three situations as a DSI where myself  
24          and my team have been in place before the Gold Group  
25          meeting is ready to go, that is nothing unusual

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1           nowadays.

2           So at that time yes, I would expect Police Scotland  
3           to deploy the FLOs and my understanding from this  
4           incident was Police Scotland were deploying FLOs. The  
5           need for it now because of the better communication, the  
6           better notification, Police Scotland still delivers the  
7           death message, they will still on occasions have FLOs  
8           in place, but it has become more of a regular occurrence  
9           for after that death message has been delivered and  
10          either the SIO or somebody within Police Scotland has  
11          informed the family that we will be taking over, it is  
12          Crown directed, and Police Scotland are much better at  
13          explaining what our role is and why we are there. And  
14          the family understand that and very, very quickly.

15          Again, if it is the other end of the country the FLO  
16          will make contact from PIRC by phone at the very  
17          earliest point. Again, after receiving as much  
18          information, whether that be from Police Scotland FLOs,  
19          whether it comes from the contact officers or if it is  
20          the SIO who has been in contact with the family, what  
21          has been discussed, what is the family expectations. To  
22          get as much information as possible before we step in.  
23          And you will have that -- at the very least the family  
24          will have a telephone introduction followed up by a time  
25          and date that suits them for a physical visit by the

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1 FLO, and either the senior investigating, officer or the  
2 DSI and the SI from a PIRC point of view.

3 Q. Returning one final time to Mr Harrower's evidence  
4 following on from the passage that we looked at moment  
5 ago:

6 "Question: When did the position change in relation  
7 to sometimes PIRC FLOs go in first?

8 "Answer: I couldn't give you a definitive date on  
9 that. I am not sure. I am quite sure Alistair Lewis  
10 would be able to confirm."

11 Is that something you can help us with?

12 A. Again, as I just explained, the lines of communication  
13 are so much better now that we have either been there as  
14 the FLO and with me is a DSI or a senior investigator.  
15 Again, depending on the logistics of meeting that  
16 family, so what has -- it is establishing what contact  
17 Police Scotland has had with the family and how do we  
18 then manage that moving forward.

19 There have been occasions when Police Scotland have  
20 had FLOs in and for us to introduce a PIRC FLO would  
21 only complicate matters because again you are opening  
22 another line of communication. But in these  
23 circumstances I have either deployed a FLO or the Police  
24 Scotland FLOs will communicate with me as a DSI and  
25 I will understand what they are saying and again, should



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1 the situation present itself, if I need to go and speak  
2 to the family and deploy a FLO, then I will do that.

3 Q. In what ways have the lines of communication improved  
4 over recent years between the PIRC and Police Scotland?

5 A. When we first started out sometimes it was days before  
6 we got notification, you are now getting a notification  
7 or a phone call, at the very least a phone call,  
8 within -- I have had phone calls within an hour of  
9 incident. In that situation you are very much -- this  
10 has happened, to call it a briefing, it is brief, it's  
11 very much a brief: this has happened, this is where it  
12 has happened and these are the circumstance of the  
13 death. That is all we know at the moment but in  
14 an hour's time we are going to the Gold Group meeting.

15 As I think I've said before, that has given me  
16 an opportunity as a DSI to sit back and look at what  
17 I may or may not need and wait for the Gold Group  
18 meeting and get my staff from on call or others who are  
19 not on call into the office ready for hopefully a more  
20 detailed briefing from a Gold Group meeting.

21 Q. What has brought about that change, that improvement in  
22 communications?

23 A. I think it is a better understanding of what our role  
24 is, not only within the police but within the Crown  
25 Office as to who we are and what we do and the

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1 importance of Crown being at the Gold Group meetings.  
2 I remember after -- I think it was after six months then  
3 the Commissioner and I think John McSparran were in  
4 front of the Justice Committee and the Commissioner  
5 described the few weeks and months of communication as  
6 "clunky" and in that six months it had improved.

7 I would say it is almost as good as it is going to  
8 get just now, but there is always room for improvement.  
9 Should our organisation expand and have more staff and  
10 other offices throughout the country, again that will  
11 only improve. One of the good things to come out of  
12 Covid was the Teams, we now have Teams. We don't need  
13 to spend as many hours on the road and we can have these  
14 meetings and deal with that.

15 Q. You mentioned Teams and you mentioned earlier in your  
16 evidence the possibility of an initial introduction to  
17 the family taking place by telephone, particularly if it  
18 was late in the evening. Have you in the recent past,  
19 perhaps since Covid, had the opportunity to make  
20 an introduction to a family, to introduce yourself using  
21 Teams as a platform?

22 A. I have never used Teams to speak to a family. But  
23 I appreciate nowadays that we have email and everybody  
24 has a mobile phone, but you will never beat  
25 a face-to-face communication with the family. A phone

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1 call is second best but it is not the best, it is not --  
2 me, personally, I would want to be sitting down with the  
3 family at the earliest opportunity irrespective of  
4 geographical commitments or logistics. It is something  
5 I could incorporate into that first phone call if you  
6 like, but at some point very early on I would be looking  
7 to sit down with the family, put a face to the name, and  
8 get their concerns as early as possible.

9 Q. I want to ask you some questions now about your  
10 appointment as a FLO to the family of Sheku Bayoh.

11 I understand from reading your statements you attended  
12 a briefing on the morning of 4 May. You explain in your  
13 statements that briefing was by Mr Harrower, who had  
14 been the deputy senior investigator over the weekend,  
15 and you were appointed as the FLO at that briefing?

16 A. Yes.

17 Q. What time was that briefing, was that 9 o'clock?

18 A. If that was what Keith put in his -- yes, I can't  
19 remember the exact time.

20 Q. Who was it that appointed you?

21 A. It might have been Irene Scullion who approached me, as  
22 head of investigations.

23 Q. You were appointed alongside another investigator,  
24 John Clerkin?

25 A. Yes.

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1 Q. And you explain in your statement that you were  
2 identified as the lead FLO and he was to assist you, you  
3 were going to be the single point of contact --

4 A. Yes.

5 Q. -- for the family. Mr Clerkin, did he also have  
6 a policing background?

7 A. I don't know the exact details, but I think he worked  
8 with Garda at one point and possibly GSOC over in  
9 Ireland, the independent investigative authority over  
10 there, prior to coming to PIRC.

11 Q. In a moment I am going to ask you to take a look at the  
12 first of the three FLO logbooks but before we do that  
13 can you explain the purpose of the FLO log?

14 A. It is a record of contact with the family, whether it's  
15 a positive contact or no contact. That is basically it.  
16 In basic terms, it is a way of recording all contact  
17 with the family throughout the whole investigation.

18 Q. Can we look, please, at the family liaison policy. We  
19 have looked at this already. It is PIRC 04460 at what  
20 I think is page 20 of the PDF. If we can stop there,  
21 please. There is a section headed, "Record-keeping",  
22 and the paragraph beneath that heading reads:

23 "At the outset of every deployment the FLO will be  
24 issued with and commence a Family Liaison Log. This log  
25 will be where all records of contact will be documented

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1 with the family/next of kin, representatives of the  
2 family and any other parties connected with the family.  
3 The log should be the only method of recording this  
4 contact."

5 Would you agree with that?

6 A. Yes.

7 Q. And the guidance goes on to say:

8 "Entries to the log should be made timeously,  
9 accurately and should be examined at regular intervals  
10 by the SI."

11 Let's look at the first log then, PIRC 04150, and  
12 I will remind you there is a hard copy of this in the  
13 folder, if you would find it helpful to look at that,  
14 Mr Lewis. If we could scroll back up a page just a  
15 little bit, please, to get our bearings. We will see  
16 "PIRC family liaison log" and then in the box beneath  
17 that this log, I assume that refers to the period 4 May  
18 to 11 May 2015?

19 A. Yes.

20 Q. And it is logbook number 1. I understand there are  
21 three logs available and this is the first of the three.  
22 So let's look at the next page, please:

23 "Family liaison log.

24 "Victim's name: Sheku Ahmed Tejan Bayoh.

25 "Crime/incident: Death after police contact."

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1           The date of the incident 3/5/15:  
2           "Family liaison officer~..."  
3           Your details are there. If we scroll down we will  
4           see the date of your appointment is the 4th of the 5th  
5           and the deputy family liaison is John Clerkin. If we  
6           keep scrolling down, please, senior investigator,  
7           John McSporran. Then if we go on to the next page. If  
8           we can stop here, please. This is:  
9           "Family~... Information."  
10          And we see here:  
11          "Family member (main contact): Ade Johnson."  
12          And relationship, although there is a redaction box,  
13          I understand that line may have been left blank. What  
14          was Ade Johnson's relationship to Sheku Bayoh?  
15          A. Brother-in-law.  
16          Q. Brother-in-law. Married to his sister, Kadi?  
17          A. Yes.  
18          Q. Let's scroll down a little further:  
19          "Family member (secondary contact): Collette Bell."  
20          And her relationship was "partner". Who provided  
21          you with this information?  
22          A. Of the family contacts?  
23          Q. Yes.  
24          A. I think it would be Keith, Keith Harrower, that gave me  
25          that.

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1 Q. And when was that?

2 A. It would either be just prior to the briefing or just  
3 after the briefing, during the first part of the  
4 briefing.

5 Q. So around the time of the briefing. What is the  
6 difference between a main contact and a secondary  
7 contact?

8 A. It is one of the -- the benefits of good practice in  
9 relation to family liaison is to have a single point of  
10 contact. I am the single point of contact for the  
11 organisation and to have a single point of contact  
12 within the family who -- that single point of contact  
13 within the family is -- you have the conversation of: he  
14 or she is your single point of contact and any  
15 information I provide to -- Ade on this occasion, I am  
16 confident that information will be cascaded to the  
17 family, and any of their questions. It is also a good  
18 way of, if the family have questions, to put that back  
19 through Ade to me to answer those questions or put it  
20 back into the investigation. So you have -- ideally you  
21 want a single point of contact within the family. If  
22 there was any issues within the family, which I have had  
23 in the past, again that is one of the reasons you --  
24 it's good practice to have two FLOs deployed. I could  
25 deal with one side of the family and John could have

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1           dealt with another side of the family. So you have  
2           that ... flexibility to assist in maintaining contact  
3           with the family, if there was some sort of split within  
4           the family. On this occasion there wasn't, so Ade was  
5           my point of contact.

6           Q. And why is he the main contact rather than  
7           Collette Bell, who is the secondary contact?

8           A. He was identified very early on as being the main  
9           contact for the family.

10          Q. Identified by whom?

11          A. It was Ade himself who said initially he would be the  
12          contact, but at the same time he was seeking advice from  
13          Mr Anwar, who eventually became my point of contact  
14          within the family.

15          Q. So it was Ade himself who told you he would be the point  
16          of contact for the family?

17          A. Yes.

18          Q. You said that the purpose of a single point of contact  
19          is that you will have confidence that any information  
20          that you give to that individual will then be  
21          cascaded --

22          A. It is establishing those parameters with that person to  
23          make sure that that information has been cascaded to the  
24          family.

25          Q. By the time of your involvement, Ade had already



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- 1 identified himself as the single point of contact?
- 2 A. Yes.
- 3 Q. What did you do to satisfy yourself that he had taken it  
4 upon himself to cascade information to everyone within  
5 the family, including Collette?
- 6 A. I had spoke to him on the day, on the 4th, before  
7 I left. I confirmed that he was the single point of  
8 contact for the family.
- 9 Q. I think there is an entry to that effect in the logs.
- 10 A. I think so.
- 11 Q. We will maybe return to this when we come to that  
12 particular conversation. Can we return to the family  
13 liaison policy, please, and look at page 9. At the top  
14 of page 9 there is a section headed, "Identifying the  
15 family":
- 16 "The term 'family' should include partners, parents,  
17 siblings, children, guardians and others who have had  
18 a direct and close relationship with the victim."
- 19 The list is not exhaustive of course, and in the  
20 paragraph that follows the need to take account of  
21 family dynamics is emphasised, but we don't see any  
22 particular reference in that list to in-laws.
- 23 A. It is part of the family here. It is not -- you  
24 don't ... you don't forget about other members of the  
25 family. That is why you have a single point of contact.

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1           It does include in-laws. It does include ... it's  
2           a very difficult job for a member of the family to take  
3           on board, because it involves a significant amount  
4           of responsibility, and cascading that information to the  
5           family is of significant importance as well. So just  
6           because it doesn't say in-laws there that doesn't mean  
7           to say you discard them. It's the family as a whole.  
8           What is the family? What is the dynamics of the family?  
9           Again, it is going back to if the -- if, for argument's  
10          sake, it was a very large family and they wanted two  
11          point of contacts, then that can be accommodated. It is  
12          not -- to say you would not -- as you say, it's not  
13          exhaustive. So if somebody came to me as an in-law or  
14          a cousin or whoever it was who wanted to know  
15          information and that was possible, it would be looked  
16          at.

17         Q. I didn't mean to suggest that in-laws should be left out  
18          of account or that they couldn't take on the role of  
19          being a single point of contact. I would anticipate in  
20          your experience there may be occasions where it is  
21          perhaps in everyone's interests that the single point of  
22          contact is someone who is perhaps not a blood relative  
23          and has something of a degree of distance. As we have  
24          agreed, the list is not exhaustive. I just note that it  
25          doesn't include in-laws but it does include at the very,

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1 very top partners.

2 A. Yes.

3 Q. I am just keen to understand why it was that Ade was  
4 identified as being the main point of contact for this  
5 family rather than Collette Bell, who, as you are aware,  
6 was Sheku Bayoh's partner and mother of his child?

7 A. Yes, I fully understand that and, as I say, that was  
8 a single point of contact. From the very outset, as  
9 I think I mentioned in my statement, I would have  
10 preferred a lot -- a much higher level of involvement  
11 with the family on a day-to-day basis, and any concerns  
12 from any member of the family of not being told what was  
13 going on, then I could have accommodated that quite  
14 easily. If that meant going to see Ade, or whoever the  
15 family contact was, to explain what we were doing and  
16 then meant I had to go and repeat myself to another  
17 member of the family 10/15/20 minutes later, then that  
18 is my role to do that.

19 Q. Let's look at the paragraph beneath the list of bullet  
20 points:

21 "The SI must always take into account the possible  
22 dynamics of a family structure to ensure that  
23 an appropriate level of support is offered. This is  
24 particularly important in situations where the family is  
25 extended, split in some way or involves the possible

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1 association of the victim with a particular culture or  
2 lifestyle."

3 What do you understand it to mean where the policy  
4 says that the SI must always take account of the  
5 dynamics of the family's structure?

6 A. You are doing an investigation, so again going back to  
7 keeping an open mind. We were starting  
8 an investigation. Any investigation you are starting  
9 from a briefing paper which is a briefing paper; you are  
10 basically being told an incident has occurred and you've  
11 got a time and date for it. That is when we then start  
12 the investigation to get to a conclusion, not the other  
13 way about. So it is his responsibility, or her  
14 responsibility, to look at the dynamics of the family  
15 structure. Does he only need one FLO as a FLO  
16 co-ordinator? It is my job to come back and say we  
17 might need more than one FLO. We might need two. We  
18 might need three. That is part of the role. But until  
19 you get that engagement with the family and establish  
20 the dynamics of the family and the circumstances of  
21 their expectations, you will never understand that. So  
22 it is about communication and speaking to, if need be,  
23 Ade and Collette. But on this occasion from the very  
24 outset it was Ade who was my point of contact.

25 MS THOMSON: Thank you. I am conscious of the time, sir.

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

3 (1.00 pm)

4 (The short adjournment)

5 (2.00 pm)

6 LORD BRACADALE: Mr Lewis, could you help me a little with  
7 one or two aspects of the evidence you gave earlier on  
8 before lunch.

9 As a general proposition in a case of death after  
10 a police contact, is it better to put the PIRC FLOs in  
11 as soon as possible rather than put the Police Scotland  
12 FLOs in first and change to PIRC FLOs the next day?

13 A. In an ideal world, my Lord, yes that would be the ideal  
14 situation. However, there are investigations in the  
15 past and quite recently whereby there has been a police  
16 involvement as a result of a police investigation, and  
17 then as a result of that the Crown have been made aware  
18 and have instructed the PIRC to investigate. So there  
19 still is the occasion where Police Scotland FLOs are  
20 quite rightly deployed because at that time it is  
21 specifically a police investigation and then when the  
22 Crown Office receive the sudden death report,  
23 for example, they may look upon it as a need for us to  
24 become involved, so you still will have that overlap, if  
25 you like, in those circumstances, and I would suggest

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1           that the way we are now more and more PIRC FLOs are in  
2           first, and it's only minimal contact by Police Scotland  
3           prior to that.

4   LORD BRACADALE:   The evidence before me is that on  
5           3 May 2015 Mr Green from the Crown Office telephoned  
6           Mr Harrower at about 9.35 on the morning of the 3rd  
7           which was around about half an hour after Mr Bayoh's  
8           life was pronounced extinct, so in this case PIRC were  
9           involved really from a very early stage.  What I am  
10          trying to understand is why on that day PIRC FLOs were  
11          not involved.

12        A.  I don't know.  As I said my Lord, if I had got the phone  
13          call I could have turned out, so it's down to logistics  
14          etc.  But at that -- well, my information is that  
15          Police Scotland were deploying FLOs and that is where  
16          your communication between our DSI at the time and the  
17          SIO within Police Scotland, that is their communication.  
18          From my point of view, yes, had I got the phone call  
19          I could have turned out and been there by early  
20          afternoon at the latest.

21   LORD BRACADALE:  Thank you very much.

22                Ms Thomson.

23   MS THOMSON:  Thank you, sir.  I wonder if we can bring the  
24          first of the FLO logs back up on the screen, please.  We  
25          have looked at the third page which had the details of

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1 Ade Johnson as main contact and Collette Bell as  
2 secondary contact. If we can move on to the fourth  
3 page, please. This is headed up:

4 "Names of non-family members involved (eg  
5 solicitor~...)"

6 Amongst others. And the non-family member involved  
7 is named as Aamer Anwar, and his contact details have  
8 been provided:

9 "Date first contacted: 4.5.15."

10 Who provided you with Mr Anwar's details?

11 A. I think it was -- it was Ade, by text.

12 Q. When was that?

13 A. I think in my log I think it was probably around  
14 about ... It will be in my log, I don't know if you can  
15 scroll down.

16 Q. We may come to that entry so let's perhaps put that on  
17 the back burner. But what I was interested to know was  
18 whether this was information that you got at around  
19 about the time of the morning briefing or potentially it  
20 was information that was provided at a later point in  
21 time but it had been recorded at the front of the log  
22 because that is the place where you can record that sort  
23 of information?

24 A. I was aware from that morning that Ade was in contact  
25 with a solicitor. I don't think at that time Mr Anwar

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1 had been named, but I knew that was ongoing. And then  
2 having spoken to Ade, I then got a text message with  
3 Mr Anwar's contact details.

4 Q. That allowed you to populate that part of the form?

5 A. Yes.

6 Q. Let's look at the next page, please. If we can scroll  
7 up a little bit we will see at the very, very top,  
8 page 1, so this is the first page of the log proper, as  
9 it were, we have the antecedent information and from  
10 this point onwards these are records of contacts with  
11 the family or the representatives. So let's look at  
12 this pro forma because the following pages are all in  
13 identical terms and then we will look at the content of  
14 it. We see it is headed up:

15 "Contact sheet.

16 "HOLMES incident no."

17 What would that be?

18 A. That is more from a police point of view, HOLMES is  
19 an IT system within Police Services they can use to  
20 manage major incidents.

21 Q. Victim is Sheku Bayoh, and then there is an entry where  
22 you can identify the person contacted, the method of  
23 contact: personal, telephone, letter or other. There's  
24 the date and time of contact. Then there is a record of  
25 the actual content of the contact, and if we scroll to



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1 the very bottom of the page, we see that there is  
2 a place where the officer making the entry can sign and  
3 date and time the entry. There is some information  
4 there that allows you to call the HOLMES receiver; is  
5 that relevant for our purposes?

6 A. No.

7 Q. So having looked at the shape of the pro forma let's go  
8 back up and look at the content of it. It's dated  
9 4 May, if we can scroll up just a little bit. 4 May but  
10 there isn't a time. But it reads:

11 "The now deceased was born in Sierra Leone 30/9/83.  
12 He resides with his partner Collette Bell and a young  
13 baby at ..."

14 Their address at Arran Crescent:

15 "About 0710~..."

16 I think that says, perhaps 15?

17 A. 7.15.

18 Q. "... 0715 hrs on Sunday 3 May 2015 Police Scotland  
19 received several telephone calls regarding a black male,  
20 possession of a knife, chasing cars on  
21 Hayfield Road/Hendry Road Kirkcaldy. Several police  
22 officers responded from Kirkcaldy Police Office.

23 "As police officers attended Hayfield Road they  
24 observed the male in possession of a knife approaching  
25 them. Police officers drew police batons and CS/PAVA

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1 spray. A struggle then ensued and the deceased was  
2 taken to the ground and handcuffed to the rear.

3 "While still on the ground about 0730 hrs, one or  
4 more officers noticed the now deceased had lost  
5 consciousness. An ambulance was summoned and police  
6 officers attempted CPR. Paramedics arrived at 0732 hrs  
7 and conveyed the now deceased to Kirkcaldy  
8 Victoria Hospital.

9 "There were no apparent injuries and medical staff  
10 continued to treat the deceased in the resuscitation  
11 room. Life was pronounced extinct at 0904 hrs and  
12 transferred a short time later to a side room of A&E  
13 where police officers stood by him. Police Scotland  
14 thereafter implemented full forensic procedures relative  
15 to the seizure of police officer uniforms, securing the  
16 incident scene and recover of evidence/productions.

17 "DSI Harrower spoke with family 3.15.15 advised  
18 family SPOC Ade Johnson regarding the need for a PM.  
19 This was refused regarding formal identification as  
20 mother was travelling from England with family elders."

21 I am going to ask you some questions about  
22 the content but before we do that let's scroll down just  
23 a bit further to the bottom of that page. It appears to  
24 have been written up at 2 pm on 5 May; is that right?

25 A. Yes.

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- 1 Q. The information that is recorded in this first entry,  
2 which spans three pages of the log, where did that  
3 information come from?
- 4 A. That was the briefing paper we had that morning. What  
5 I try to do when I am deployed as a FLO is if there is  
6 a briefing paper, to have a quick reference, I will put  
7 that as basically the first entry so if I need it refer  
8 to rather than searching through IT systems or anything  
9 else, I can find it, I know exactly where to find it.
- 10 Q. That briefing was at 9 o'clock on the morning the 4th  
11 the entry has been written up at 2 o'clock on the  
12 afternoon of the 5th. Did you have a copy of the  
13 briefing paper or did you write this from memory?
- 14 A. No, it was a copy.
- 15 Q. Why wasn't it written up at the time?
- 16 A. My priority on the 4th was to make contact with the  
17 family, and establish more detail and more  
18 circumstances. So the 5th -- at that time, the time we  
19 dealt with other enquiries, that was my sort of first  
20 opportunity to sit down and take that time to start my  
21 FLO log and, as I say, start with the briefing paper.
- 22 Q. Can we go back to the first of those three pages,  
23 I think it is page 4 of the PDF. Page 5, sorry. If we  
24 scroll to the bottom of that page, we see here the  
25 bottom four lines:

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1 "As police officers attended Hayfield Road they  
2 observed the male in possession of a knife approaching  
3 them. Police officers drew batons and CS/PAVA spray."

4 Next page:

5 "A struggle then ensued~..."

6 So this is information that you say came from the  
7 briefing that morning, from the briefing paper?

8 A. Yes.

9 Q. Let's have a look at the briefing paper, please. It's  
10 PIRC 03694. Mr Harrower has confirmed to us that this  
11 was the paper that he produced on 3 May. So we see it  
12 is dated 3 May:

13 "Briefing note for director of investigations.

14 "Death in police custody Sheku~... Bayoh~..."

15 "Background information."

16 If we could scroll down to the second page of this  
17 document, three or four paragraphs down, perfect. So we  
18 see here in the background section it is recorded:

19 "It was reported that as the officers drove into  
20 Hayfield Road they saw the now deceased coming towards  
21 them as the vehicles came to a halt. They could clearly  
22 see he was in possession of a knife and was making his  
23 way towards them. Some of the officers, unknown how  
24 many at this stage, drew their police issue batons. At  
25 least one of the officers also drew their PAVA spray and

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1 issued a warning to the now deceased, who continued to  
2 come forward. PAVA was subsequently sprayed towards the  
3 now deceased, however this had little effect, there is  
4 some reference to him laughing at the officers. It was  
5 also reported that one of the female officers was  
6 apparently kicked in the back and also sustained a blow  
7 to the back of her head. She sustained no serious  
8 injury as a result but complained of pain.

9 "As the PAVA had little effect, a number of the  
10 officers struck the now deceased with their batons. It  
11 is unknown at present how often he was struck or how  
12 many officers struck him. A struggle then ensues and  
13 the now deceased was eventually taken to the ground  
14 where he was handcuffed to the rear. Due to his  
15 constant struggling, leg restraints were also applied to  
16 him."

17 Is that familiar to you?

18 A. Not that document, no. There is information there I am  
19 aware of, but not that particular document, no.

20 Q. So this is not the briefing document you were shown on  
21 3 May?

22 A. No, it means that what I have written into the FLO log,  
23 that was what I had to hand.

24 Q. I see, so you have copied verbatim into your FLO log.

25 A. From memory, yes. It was an A4 sheet I had, from memory

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1 and I copied that out.

2 Q. I see. That must be my mistake. Sorry, I had  
3 understood that perhaps you had incorporated a summary  
4 of what was in this briefing note?

5 A. No.

6 Q. Bear with me just a second. (Pause).

7 I am being reminded that Mr Harrower confirmed in  
8 his evidence yesterday that this was the document that  
9 formed the basis for the briefing he gave on the morning  
10 of the 4th along with his operational notes. But to the  
11 best of your recollection this wasn't a document that  
12 was provided to you at the time?

13 A. I don't remember getting that document with that amount  
14 of detail in. Had I got that, I would have -- I am  
15 confident I would have put all of that into the first  
16 few pages of the FLO log.

17 Q. All right. In any event, the information that you  
18 record -- sorry, if we can jump bag to the log, please  
19 thank you. We see the information that you have  
20 recorded is that when the officers attended  
21 Hayfield Road they observed the male, who we now know to  
22 be Sheku Bayoh, in possession of a knife and approaching  
23 them. Is that right?

24 A. Yes.

25 Q. And that the officers drew their batons, and CS and PAVA

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- 1           spray?
- 2       A.   Yes.
- 3       Q.   And a struggle ensued. Did you understand the
- 4           information that was provided to you and which you have
- 5           copied into your log to be accurate at the time it was
- 6           given to you?
- 7       A.   At the time it was given to me, yes.
- 8       Q.   If we look at the information provided, if we scroll up
- 9           just a little bit again, please, the officers observed
- 10          Sheku Bayoh or the male in possession of a knife
- 11          approaching them, they drew their batons and their CS
- 12          and PAVA spray. Was that information suggestive to you
- 13          that Mr Bayoh was the aggressor here and the police were
- 14          responding to the situation before them?
- 15       A.   I didn't look at that as it was a briefing paper, I was
- 16          keeping an open mind as to what had happened prior to
- 17          that and what had happened right there and then. So
- 18          I wouldn't put him as the aggressor, for my -- putting
- 19          a name to it, it's an incident whereby there has been
- 20          an interaction between Sheku and the police officers who
- 21          attended.
- 22       Q.   But you understood that account of events to be accurate
- 23          at the time that it was provided to you?
- 24       A.   As far as the briefing paper was concerned, yes that was
- 25          what was -- the information that was at hand at that

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1 time.

2 Q. If we can scroll to the very end of that entry, so it's  
3 the third page of that entry, final paragraph:

4 "DSI Harrower spoke with the family 3.5.15 advised  
5 family SPOC~..."

6 Is that single point of contact?

7 A. Yes.

8 Q. "... Ade Johnson regarding the need for a PM. This was  
9 refused regarding formal identification as mother was  
10 travelling from England with family elders."

11 So you have explained that you understood that Ade  
12 was the single point of contact for the family?

13 A. Yes.

14 Q. How was it established that Ade was the single point of  
15 contact?

16 A. That was from Keith Harrower, that he was the single  
17 point of contact.

18 Q. So Keith Harrower advised you that Ade was the single  
19 point of contact?

20 A. Yes.

21 Q. Were PIRC satisfied that he was the single point of  
22 contact for the entire family?

23 A. At that time, yes. As I said earlier, I am sure he was  
24 aware of the family consulting with -- as it turned out  
25 to be Mr Anwar at that time as well.



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- 1 Q. What about Collette Bell; were the PIRC satisfied that  
2 Ade had authority to speak on her behalf, that she had  
3 consented to him being single point of contact on her  
4 behalf?
- 5 A. I am not aware of whether Collette was spoken to by PIRC  
6 staff on the 3rd. But my understanding was that until  
7 I had clarified things myself, that Ade was the single  
8 point of contact for the family.
- 9 Q. What steps did you take to clarify things yourself?
- 10 A. On the Monday morning I wanted to clarify the  
11 identification with the family if possible, and to  
12 confirm with them that he was the single point of  
13 contact, and throughout that day that was my contact  
14 details, was with Ade, his telephone number.
- 15 Q. We will maybe revisit that issue as we go through a log.  
16 That might be easier than jumping around within the  
17 different entries. But as far as you understood things,  
18 when you were appointed as FLO on 4 May, Ade was the  
19 single point of contact --
- 20 A. Yes --
- 21 Q. -- for the family?
- 22 A. -- and he was seeking advice from a solicitor, so I was  
23 aware of that as well.
- 24 Q. What were your expectations of a single point of  
25 contact?

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1 A. Again, it is -- until you actually speak to that person  
2 and establish the parameters, at that time he was, as it  
3 is in the title, a single point of contact. He was the  
4 person I had to speak to on behalf of the family and  
5 I was going to be his SPOC for the PIRC organisation.

6 Q. You said earlier in your evidence before the lunch  
7 adjournment that you would anticipate the single point  
8 of contact cascading information, you would need to feel  
9 confident that they were going to cascade information to  
10 the family. Is that the sort of discussion that you  
11 would have at the point where you were introduced to the  
12 single point of contact?

13 A. Yes.

14 Q. So setting parameters?

15 A. Setting parameters, it's having the confidence -- as  
16 I said, having the confidence. There is no -- until you  
17 progress an investigation and have anything to suggest  
18 that has not been done, then I had no reason to doubt  
19 that Ade would not pass on any information to the  
20 family, so I was confident that he was going to do that.

21 Q. This entry refers to the need for a post mortem, had  
22 anything been said at the morning briefing about  
23 the arrangements for the post mortem?

24 A. The family had refused formal identification.

25 Q. Was that discussed at the briefing?

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1 A. Just as -- it was formal identification been refused,  
2 and that the post mortem was going ahead, with -- as per  
3 Crown instructions.

4 Q. Do you know what the Crown instructions were in terms of  
5 the arrangements for the post mortem?

6 A. I knew it was going ahead on the 4th. I think it was  
7 about lunchtime, I don't know the exact time.

8 Q. Do you recall what you were told at the briefing about  
9 the family's refusal regarding formal identification?

10 A. That is what I was told, refused formal identification  
11 because there was family, Sheku's mother and others,  
12 extended members of the family travelling from England  
13 and elsewhere to the family home.

14 Q. Did you understand why it was that the fact that his  
15 mother was travelling from England would prevent family  
16 here in Scotland from carrying out identification?

17 A. I couldn't understand -- that is why -- you know, that  
18 morning I wanted to speak to Ade just to clarify what  
19 the circumstances of that was and if there was any  
20 reason -- or any way that I could assist in resolving  
21 that issue.

22 Q. I would like you to look at Kadi Johnson's statement  
23 which is SBPI 00236, at paragraph 11, please:

24 "I am asked if we had any further engagement with  
25 Police Scotland that evening."

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1           This is 3rd May:

2           "They did say that a family liaison officer will  
3 come. Somebody came after that; I believe maybe it was  
4 a family liaison officer. But I remember another person  
5 coming to the house, that was quite late. When he came  
6 in he said we should go and identify the body. I said  
7 to him 'No'. I said, 'My Mum is in London. I'll  
8 arrange for her to come the next day, and when she  
9 comes, we'll go and identify the body'. That's what  
10 I said to him."

11           Do you have any comment on that?

12       A. I am not aware of the detail of that, but I was aware of  
13 Keith Harrower speaking to Kadi on the morning of the  
14 4th as well by telephone. But that information in that  
15 detail, no. All I knew at the time on the Monday was  
16 that the family had refused formal identification, and  
17 the family were travelling -- because family were  
18 travelling from England.

19       Q. What Kadi says in her statement essentially is not that  
20 there was a refusal to identify point blank, but that  
21 the family would identify when the mother made it to  
22 Scotland from England.

23       A. That is correct, yes.

24       Q. Does that come as news to you?

25       A. It is, yes -- that detail, yes. As I said earlier,

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1 I think it is probably the first time we have had any --  
2 you know, a family refuse that identification, so I saw  
3 that as a priority as to, as I said earlier,  
4 can I resolve that, is it something that I can resolve  
5 and revisit on behalf of the family. And again, the  
6 communication between the organisation and the family.

7 Q. I am going to read to you a passage from Kadi's  
8 evidence, again this won't come up on the screen because  
9 it is from our transcript. This particular paragraph --  
10 she was taken to this paragraph in her evidence in the  
11 same way I have taken you to certain paragraphs and then  
12 asked some questions.

13 She was taken to that paragraph and then she was  
14 asked:

15 "Question: Did you make it clear to that person [who  
16 I think we know was Keith Harrower] that you would go  
17 the next day once Sheku's mother was in Kirkcaldy?

18 "Answer: I told them that our Mum was coming on the  
19 next day and we could arrange to see the body then, yes.

20 "Question: And when you explained to the person you  
21 think is the PIRC, the family liaison officer, that  
22 Sheku's Mum would be travelling up the next day, did you  
23 make it clear that you would be willing to identify the  
24 body once she had arrived in Scotland?

25 "Answer: Mm-hm. Yes, it was clear that we will

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1 identify the body once my Mum is here. That was made  
2 clear."

3 Again, would you wish to comment on that at all?

4 A. I was not aware of that conversation. And from a family  
5 liaison point of view, had I known that that was the  
6 situation I could have facilitated that on the Monday  
7 with conversations with senior management or the Crown.

8 Q. I would like to take you to Mr Harrower's Inquiry  
9 statement now, which is SBPI 00259, paragraph 55:

10 "After explaining to the family regarding the PIRC  
11 role and function, I then advised the family that COPFS  
12 had made arrangements for post mortem examination on the  
13 afternoon of Monday 4 May. I asked for two family  
14 members to make themselves available to attend the  
15 City Mortuary in Edinburgh to identify the body. My  
16 operational notes, at page 9, state that 'Ade stated the  
17 family had discussed matters, and no representatives  
18 were willing to do the identification until family  
19 members, including the now deceased's mother,  
20 attended~... She was travelling with a group, including  
21 elders from England'. My understanding of this was that  
22 the family were refusing to do the identification in the  
23 timescale outlined. I don't think it was the intention  
24 that it would be the mother that would do  
25 the identification, but that they were not willing to

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1 participate in that process until she arrived~... I am  
2 aware she was travelling from down south or was about to  
3 travel. I don't have any recollection of being advised  
4 as to when she would arrive. I got the impression she  
5 was in the process of travelling but I don't think  
6 established where she was actually coming from other  
7 than it was somewhere in England. I think it was  
8 suggested that they would arrive at some time the  
9 following day, which was the Monday, and obviously the  
10 post mortem was arranged for midday on the Monday.  
11 I have been asked if the family understood that it was  
12 the Crown's decision as to the timing of the  
13 post mortem. Yes, I think so. I'd explained  
14 specifically it was the Crown's decision. My statement  
15 records that Mr Johnson wasn't willing to be more  
16 specific on the expected arrangements of the arrival of  
17 the family members etc. That part of the conversation  
18 was closed down."

19 So it's very much a matter for the Chair but it  
20 would seem to be that there isn't really a conflict  
21 between Kadi's evidence and Mr Harrower's evidence and  
22 that he accepts that the family were not refusing  
23 outright to identify Sheku's body but they wanted that  
24 process to be delayed until his mother had arrived from  
25 England -- you are nodding, would you agree that

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1 interpretation?

2 A. Yes, now that I am aware of that and that information  
3 I don't see that as a refusal, I see that as the family  
4 expressing their involvement and what they can and  
5 cannot do. And that would be part of my role. Again,  
6 hindsight is a wonderful thing but had I been involved  
7 on the Sunday then I am confident we could have arranged  
8 something to facilitate the family's wishes.

9 Q. You said earlier in your evidence, I think after we  
10 looked at Kadi's evidence but before I took you to  
11 Mr Harrower's evidence:

12 "... had I known, I could have facilitated that on  
13 the Monday with conversations with~..."

14 And I think you said senior management or the Crown?

15 A. Yes.

16 Q. I am finding it difficult to follow the transcript at  
17 the same time as taking your evidence.

18 So help us to understand what might you have been  
19 able to do had you appreciated, when you came on duty  
20 and were appointed as a FLO early on Monday 4 May, had  
21 you appreciated then that the family had not refused to  
22 perform formal identification but that they were asking  
23 effectively for that process to be delayed. What would  
24 you have done?

25 A. Again, I would have raised it with senior management and



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1           asked them to liaise with on this occasion Dave Green  
2           to -- if that was the case, that it had to go ahead at  
3           that the time then I would need some form of explanation  
4           to provide the family to explain those circumstances and  
5           the rationale behind that.

6           Q. Which family members did you understand had refused to  
7           perform the identification?

8           A. I don't think it was -- I am not aware of any specific  
9           person or member of the family saying, "No I can't do  
10          it". It's a formal identification, obviously it would  
11          prior to the post mortem, but it doesn't need to be the  
12          family. If the family didn't want to do it and they  
13          nominated two people who had known Sheku, again I would  
14          have facilitated that even to the point, as we have done  
15          in the past, of transporting family members to the  
16          post mortem and facilitating that request.

17                 So again, as I said that morning I wanted to  
18                 understand more about why this had come as a refusal, as  
19                 it was at the time, but unfortunately I didn't get that  
20                 chance to make that communication with Ade, so~...

21                 And again, on the Sunday it would have been  
22                 challenging to arrange if they wanted identification on  
23                 the Sunday, just through the logistics of it, but it  
24                 would have been explored or I would have explored it to  
25                 assist the family.

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- 1 Q. Can we bring log up again please, just to remind  
2 ourselves exactly what was said in the entry. This is  
3 the information that was provided to you. You said all  
4 of this information came from a briefing note; is that  
5 right?
- 6 A. Yes.
- 7 Q. Not the one I thought it was --
- 8 A. No.
- 9 Q. -- it was an A4 sheet. Did that include the bit that we  
10 have looked at, at the end of that entry, please.  
11 Page 3 of that entry. The final paragraph:  
12 "DSI Harrower spoke with family 3.5.15 advised  
13 family SPOC Ade Johnson regarding the need for a PM.  
14 This was refused regarding formal identification~..."  
15 Et cetera. Was that information written down on the  
16 briefing note that was provided to you?
- 17 A. No, I think -- I am not 100% certain but I think that is  
18 more a conversation I had with DSI Harrower. He would  
19 tell me that there was a refusal.
- 20 Q. So it said that DSI Harrower had confirmed that Ade said  
21 that there was a refusal regarding formal  
22 identification, and I am wondering what your  
23 understanding was at that point in time about  
24 Collette Bell's attitude towards identifying Sheku's  
25 body?

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1       A. Again, that information hadn't been provided to me, Ade  
2       was the point of contact, and as I said earlier, my  
3       priority was to speak to the family to ascertain the  
4       full circumstances or to get more detail about  
5       the circumstances, and to assist in the formal  
6       identification.

7       Q. So the reference here is to DSI Harrower speaking with  
8       the family on 3 May, and we have heard his evidence this  
9       week, as I have mentioned, and he gave evidence that he  
10      had gone to the Johnsons' home on the evening of the 3rd  
11      and that is where this conversation took place.

12             He was asked:

13             "Question: Do you remember Collette Bell being  
14      present?"

15             And he replied:

16             "Answer: No.

17             "Question: Or her mother?"

18             "Answer: I wouldn't have known, I wouldn't have been  
19      able to identify either of them at that stage."

20             He was then asked:

21             "Question: Did you have a conversation about  
22      the post mortem with Collette Bell at a separate time?"

23             "Answer: No."

24             Can I invite your comment on that evidence?

25      A. I couldn't comment on who he remembers being there.

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1 I wasn't there for that family meeting. I don't really  
2 know what you want me to~...

3 Q. That is my fault. If the question wasn't clear that is  
4 entirely my fault. What I am getting at is  
5 this: Ade Johnson has in the context of a meeting with  
6 DSI Harrower apparently refused formal identification on  
7 behalf of the family. DSI Harrower couldn't remember  
8 whether Collette Bell had been party to that meeting, he  
9 said he wouldn't have recognised her if she had been  
10 there. So I am wondering whether you had any  
11 understanding at that time, this is the morning of the  
12 4th, as to what Collette Bell's position was in relation  
13 to identification of the body?

14 A. On the 4th, no. I wasn't aware of any requests or any  
15 information regarding that.

16 Q. I would like to read to you another chapter from  
17 Collette Bell's evidence, again this won't come up on  
18 the screen. She gave evidence that she had provided  
19 a statement to police officers on the morning of 3 May  
20 very shortly after the death message had been delivered  
21 to her. She said in her evidence:

22 "Answer: I said 'I don't want to give you  
23 a statement, I want to see Shek'. And they had said,  
24 you know, that they understood it was difficult but it  
25 was really important to try and get the statement so

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1 that they could get all the information that they needed  
2 to find out what had happened. And I had said, 'No,  
3 I just want to see Shek, I just want to see Shek'.  
4 I remember saying it over and over again, 'I don't want  
5 to do anything, I just want to see Shek', and they had  
6 said, 'If you get the statement done then we will see  
7 about you going to see him'."

8 And she was asked by senior counsel:

9 "Question: So having heard that what was your  
10 understanding of the position?

11 "Answer: Well, I thought I will do the statement and  
12 then I will get to see him. They have said that he  
13 would need to be identified anyway, and they had said,  
14 'You will get to see him, so if you get your statement  
15 done you will get to see him because he needs to be  
16 identified anyway', because they had explained that he  
17 would probably need a post mortem, I think, at that  
18 stage."

19 She later in her evidence went on to say that she  
20 recalled on 3 May:

21 "Answer: ... staying up really, really late,  
22 obviously upset but I kept thinking: why have they not  
23 contacted me to go and see him? I remember saying to my  
24 Mum, 'I thought they were going to phone me to go and  
25 see Shek', and then I was like, 'But I don't have

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1 a number to get in contact with them, surely they will  
2 just get in contact with us'. Because I had made it  
3 very, very clear to them that I wanted to see him."

4 Can I invite your comment on that evidence?

5 A. That is a statement she gave to Police Scotland  
6 officers; is that correct?

7 Q. She had given a statement to police officers on the  
8 morning of the 3rd and she had been asked about  
9 the giving of that statement in her oral evidence here  
10 before the Inquiry. She then went on to narrate the  
11 conversation that she said she had had with them in the  
12 aftermath or during the course really of giving her  
13 statement about wanting to see Sheku's body and she said  
14 she had been reassured that if she gave the statement  
15 then yes, she would be able to see the body.

16 A. I am not aware of the circumstances of why  
17 Police Scotland would want that statement as urgently as  
18 that, there may well have been an operational decision  
19 from that point of view but to view -- again, hindsight  
20 is a wonderful thing but had myself been involved as  
21 a FLO then it may well have presented logistical issues  
22 in relation to viewing Sheku but I would have done my  
23 very best to at the very least try and get it done that  
24 night, if not as early as the following morning.

25 Q. Can I take it then that the chapter of her evidence

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1 I have just shared with you, again comes as news to you  
2 and that you had been unaware that Collette had wanted  
3 to identify her partner's body?

4 A. Yes.

5 Q. Again, if you had known that when you were appointed as  
6 a FLO on the morning of the 4th, what would you have  
7 done?

8 A. As I said earlier, I would have made it a priority. The  
9 formal identification would then be complete, if  
10 Collette and her Mum, for example, wanted to do that or  
11 another member of the family. So that would have been  
12 effectively a job done, and then we could have arranged,  
13 depending on what the family wanted, additional viewing.  
14 But as I say I wasn't aware of that -- that issue in  
15 relation to the family.

16 Q. I would like to read to you one final chapter from  
17 Collette's evidence, she was asked by senior counsel  
18 what impact it had had on her not being able to see  
19 Sheku before the autopsy took place, and she said:

20 "Answer: Really bad. I think because I didn't get  
21 to say goodbye, I didn't get to see him even now I think  
22 maybe they still got it wrong. Like, I know they didn't  
23 get it wrong, I know it was Shek, but I often find  
24 myself thinking maybe they did get it wrong, maybe it  
25 wasn't actually him. I often have nightmares and things

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1 about it, that I will be walking down a beach on holiday  
2 and Shek will be coming towards me, and I think it is  
3 just I didn't have that closure and I didn't have that  
4 time to say goodbye because it was so sudden and then  
5 not being able to see him has had a massive impact on  
6 me."

7 Could I ask for your comment on that?

8 A. I fully understand that -- that -- her feelings and her  
9 emotion and probably anger as well. All I can say is  
10 had I known that, had I been involved at an earlier  
11 stage I would have facilitated that request --  
12 I wouldn't say with ease but it would have been done.

13 Q. You said that in order to facilitate that request, and  
14 similarly if you had appreciated -- if you had  
15 appreciated at the time that Kadi and her family simply  
16 wanted to await their mother's arrival from England  
17 before identifying the body, you said that part of that  
18 process of facilitation would involve speaking with  
19 senior management. Who would that have been within your  
20 organisation?

21 A. That would be -- on this occasion it was Billy Little,  
22 who is a DSI, and John McSporran. And if needs be,  
23 John Mitchell, the director of operations, to liaise  
24 with Dave Green.

25 Q. So you would have expected them to liaise with



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- 1 Dave Green directly?
- 2 A. If I was involved in that situation I would -- if the  
3 family -- with the refusal I would be looking to, as  
4 I said, clarify that and if the Crown were insisting  
5 that that post mortem had to go ahead at that time  
6 I would need to have something to give the family back  
7 from an information point of view. I wouldn't accept  
8 the fact that going back and saying, "Well, the Crown  
9 has said ..." It is all about communication with the  
10 family, so had I been aware of that I would have  
11 progressed it to as high a level as possible to get  
12 an answer.
- 13 Q. What would you have hoped would have been the outcome of  
14 senior management speaking with Dave Green?
- 15 A. I would like to think positively and from a confident  
16 point of view that to explain the full circumstances,  
17 that we could have accommodated the family's wishes.
- 18 Q. What impact might that have had on the timing of the  
19 autopsy?
- 20 A. Again, I would need to -- you know, speaking to Ade, as  
21 to what is the timescale we are looking at, bearing in  
22 mind you have family travelling up from England to  
23 Kirkcaldy, to then expect them to turn round and go  
24 straight back down to Edinburgh mortuary, I think that  
25 would be -- yeah, that would be unacceptable to expect

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1           that of them. But if that was their wish and they were  
2           willing to do that then if that meant we had to  
3           transport all the family members to negate the need for  
4           them to drive that distance and take them back home,  
5           I could have done that that could have been arranged.  
6           I have done it before many, many times.

7           So again, just going back, being aware of the full  
8           circumstances I would have accommodated that.

9           Q. Would you have expected your senior managers, whether it  
10          was Mr Little, Mr McSporrán or Mr Mitchell, in their  
11          liaison with Dave Green to have explored the possibility  
12          of delaying the start of the post mortem?

13         A. If I was aware of the full circumstances I would be  
14         surprised if something couldn't be done. And again, if  
15         it couldn't be done I would need to have some form of  
16         answer, not just, "It's not happening, it's going ahead  
17         now". There would need to be some rationale behind  
18         that.

19         Q. Thank you. Can we go back to the FLO log, please. It's  
20         page 9 of the PDF. This is the next entry. I am going  
21         to take you through I think every entry from 4 May and  
22         this is the next one, and the contact date and time, are  
23         10.40 hours on 4/5 and it's a personal contact with DSI  
24         little who we have heard was appointed as the  
25         deputy senior investigator on 4 May. Is that right?

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1 A. Yes.

2 Q. Let's look at the entry:

3 "FLO meeting with DSI William Little and

4 Investigator John Clerkin.

5 "FLO strategy.

6 "Provided with an overview of the investigation.

7 "Requested to make contact with the immediate

8 family, introduce the PIRC FLOs contact numbers etc.

9 "Responsible for the following tasks.

10 "To obtain relevant background details of the family

11 members and the victim.

12 "Act as consultant to the family in respect of

13 the legal procedures.

14 "Act as a consultant to the family in respect of

15 PIRC procedures.

16 "To ensure the family receive appropriate

17 information.

18 "To advise the family of the progress of the

19 investigation.

20 "To advise the family of the existence and role of

21 appropriate support agencies and how to contact them.

22 "To acquire and document all evidence relating to

23 the family and people associated with it."

24 Again, we see at the bottom that this entry was

25 written up at 15.00 hours the following day, so again

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1 more than 24 hours later. But I think we saw that the  
2 previous entry had been written up at 2 o'clock on the  
3 afternoon of the 5th. So can we take it that there were  
4 simply no entries written up before 2 o'clock on the  
5 5th?

6 A. No. Yes, that is correct.

7 Q. What does this entry that we have just looked at relate  
8 to? There is a reference in there to FLO strategy.  
9 I am just wondering what the entry -- what it is? Is it  
10 a summary of tasks that you were given that corresponded  
11 to the FLO strategy?

12 A. Yes, basically it is, it's a -- it's an overview of, as  
13 it says there, what is expected of me, and the contact  
14 to make with the family and the basics of family liaison  
15 with the single point of contact.

16 Q. We will return to this in a moment but can we jump back  
17 to the policy document, please. If we look at page 7 of  
18 the PDF:

19 "Role of the senior investigator.

20 "Family liaison strategy.

21 "It is essential that prior to any FLO deployment  
22 the SI has formulated a family liaison strategy. The  
23 strategy should set out the objectives for the liaison  
24 between the family and the investigation and are the  
25 basis for tasking the FLO. These objectives should

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1 include:

2 "Gathering material from the family;

3 "Obtaining victimology;

4 "Keeping the family updated on the progress of the  
5 investigation;

6 "Ensuring the investigation is not compromised by  
7 the disclosure of untrammelled information; and.

8 "Police and family media strategy."

9 And if we can also look at the top of the next page,  
10 please. Top of the page 8:

11 "FLOs should be fully aware of the aims and  
12 objectives of their deployment prior to meeting with the  
13 family and should have sight of the family liaison  
14 strategy document. Any uncertainties on the part of the  
15 FLO should be discussed with the SI before meetings with  
16 the family/victims occur."

17 In your second Inquiry statement, we don't need to  
18 go to it but the reference is paragraph 61, you say:

19 "I think John McSporran actually wrote up a more  
20 detailed FLO strategy. I might be wrong on that."

21 I am interested to know whether you had sight of  
22 a family liaison strategy document which the policy  
23 suggests should be made available to the FLO?

24 A. Not a written one by John McSporran, no.

25 Q. Do you have anything beyond the entry in the FLO log

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1           that we have just looked at?

2           A. From a written copy? No, no.

3           Q. What we -- the entry in the log that we looked at  
4           a moment ago, is that in effect the family liaison  
5           strategy or a summary of it?

6           A. It's a summary of it. It gave -- it's the early days of  
7           the investigation, and because of my experience in many  
8           FLO deployments I knew what my job was, I knew what  
9           I had to get and I knew the priority and the importance  
10          of getting that information. So, from a personal point  
11          of view, all I really needed was an overview of what  
12          I basically knew I had to do, and that there was --  
13          again, going back to the post mortem on the actual day  
14          I didn't hang about at Hamilton Police Office, I felt it  
15          was more of a priority to me to be up in Kirkcaldy, just  
16          in case the family wanted to speak to me. Any member of  
17          the family, so that I was nearby.

18                 So I knew what my job was, I knew what I had to do,  
19                 and as far as a written strategy, no I have never seen  
20                 one.

21          Q. Given your experience did you feel at a disadvantage  
22          given you didn't have a written strategy?

23          A. No, no. If I had had any concerns whatsoever, I would  
24          have gone back to Billy or John McSporran, depending on  
25          the information I had, and have no fear of raising any

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1 concerns.

2 Q. Can we go back to the entry that we were looking at  
3 a moment ago, the entry that is a summary of the  
4 strategy in the FLO log. Log page 5. So it will be  
5 another two pages further on. Thank you.

6 If we scroll down I want to just ask you to explain  
7 some of the tasks that you have summarised here:

8 "Responsible for the following tasks."

9 You say:

10 "To obtain relevant background details of the family  
11 members and the victim."

12 That is perhaps self-explanatory. If we look  
13 towards the bottom of the page:

14 "To ensure the family receive appropriate  
15 information."

16 Can you explain what that means?

17 A. In general it is -- again, it's feeding the information  
18 to the family, liaising with them and giving them  
19 an update as to how the investigation is progressing.  
20 But again, at the same time it's a live investigation  
21 and we explain from the outset that they may well ask  
22 a question that I cannot answer or it would be improper  
23 for me to answer because we are reporting to the Crown,  
24 and just because we send a report to the Crown that is  
25 not the end of the investigation, the Crown Office could

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1 quite easily come back and instruct further actions of  
2 the organisation. So it is maintaining the appropriate  
3 information to the family so that they know the  
4 investigation is progressing, and how it is progressing.  
5 But at the same time there is information that I would  
6 possibly not divulge to them, to maintain the integrity.

7 Q. The next bullet point is:

8 "To advise the family of the existence and role of  
9 the appropriate support agencies and how to contact  
10 them."

11 Can you say a little more about that?

12 A. Yes, over the years you gain a lot of experience of  
13 different organisations, I think you have to make it  
14 quite clear that as a family liaison officer you are not  
15 a counsellor, I have no training in that whatsoever,  
16 I have experience of providing information to families  
17 in relation to counselling, that might be  
18 as straightforward as contacting their local GP in their  
19 local area. If for any reason I thought it was  
20 appropriate and I needed to find local  
21 contacts/information for them, from a counselling point  
22 of view, I would research that locally to find that and  
23 if need be introduce them, which I have done in the  
24 past, to those people. But I cannot -- you understand  
25 it is not for me to tell families to go and speak to



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1           these people, I can only provide that information, and,  
2           as I say, you have that wealth of information from your  
3           own experience, but if I didn't know anything about it  
4           I know where I could go and get it.

5           An example, if you go back to the meetings with FLOs  
6           about the repatriation of bodies to another country, if  
7           I did not know how to do that, I knew where to go and  
8           get that information, to provide that and to assist the  
9           family. So it's not a case of being a counsellor, it is  
10          a case of: I can help you and I can get you -- that is  
11          my support role, I can provide you with the information.

12         Q. So a signposting role essentially?

13         A. Effectively, yes.

14         Q. The family liaison policy, we don't need it bring it up  
15          on the screen, but the reference would be page 31, it  
16          contains -- it includes a section on support services  
17          and there are some appendices to that policy that  
18          provide details of various support agencies including  
19          Compassionate Friends, Cruse, PETAL, these are all  
20          organisations you know about?

21         A. Yes.

22         Q. Are they organisations that you have signposted families  
23          to in the past.

24         A. In the past, yes. I think you are moving forwards,  
25          I think it was probably 2016/2017 I had a more active

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1 role in the FLO policy, and in order to keep it updated  
2 it was to remove some of those organisations because  
3 sometimes it wasn't appropriate for that organisation to  
4 be involved. So removing it from the policy, removing  
5 it from the leaflets but at the same time having that  
6 ability to provide that support role, as you say  
7 signposting them in the right direction.

8 Q. Some of these are national organisations but you spoke  
9 about having local knowledge as well?

10 A. You have, if -- there might well be a national  
11 organisation that can assist the family and it may well  
12 be contacting that national organisation to try to  
13 identify a local branch that can assist them, or if --  
14 invariably if you speak to these organisations, they  
15 will quite openly tell you, "No I can't assist but  
16 I know somebody who can or an organisation who can", so  
17 again you are getting that support role and have the  
18 ability to provide that to any family in relation to  
19 whatever it is.

20 Q. Are these the sorts of enquiries you might make on  
21 behalf of a family member, to call the national helpline  
22 to find out if there is a local branch rather than  
23 simply handing the family the telephone number for --

24 A. Yes, if you can -- these leaflets serve a purpose, but,  
25 you know, if family said, "No I don't want to do that

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1 but can you do that for me", I have no issues with that,  
2 that is what the company phone's for, making those phone  
3 calls.

4 Q. Can we move on to the next entry, please. Next page,  
5 please. If we scroll up just a little bit, please.  
6 Contact, date and time haven't been completed here, but  
7 I think as we read in we will find there is a timestamp  
8 within the entry itself. So let's look at this entry  
9 and then I will ask you some questions about it:

10 "Provided with a family update regarding formal  
11 identification as this had been refused by the family.  
12 3.5.15 DSI Harrower again contacted the family SPOC  
13 Ade Johnson. DSI Harrower spoke with Ade Johnson  
14 1030 hrs 4.5.15 in my presence. He confirmed family not  
15 willing to attend PM for formal identification.  
16 Confirmed to Ade Johnson that Crown directed post mortem  
17 to go ahead as planned. Asked to attend and introduce  
18 FLOs morning of 4th. Ade Johnson stated he was in  
19 consultation with a solicitor who had contacted PIRC on  
20 behalf of the family. DSI Harrower thereafter called  
21 back and left a voicemail message with FLO details and  
22 contact number, also phoned and spoke to Kadi on  
23 landline. Details also left with Kadi regarding contact  
24 details."

25 So, as I noted the time of the contact hasn't been

## Transcript of the Sheku Bayoh Inquiry

1           written up but there is a reference to you being present  
2           during a call that Mr Harrower made at 10.30 on the  
3           morning of 4th, which provides a timestamp for this  
4           particular event.

5           A. Yes.

6           Q. The previous entry we looked at moment ago related to  
7           your meeting with Mr Little, at 10.40. I wondered which  
8           happened first. Because either the entries are out of  
9           sequence or one of the timings must be incorrect?

10          A. I can't remember. I may well have had a meeting with  
11          Billy and then Keith making that phone call or  
12          vice versa, I can't remember to be --

13          Q. It may not matter, they are only ten minutes apart.

14                 If we scroll to the bottom of that page, please. We  
15          see that the date and time that the entry has been made  
16          has also not been completed here but given that  
17          the previous entry was written up at 3 o'clock on the  
18          5th, would it be reasonable to assume that this entry  
19          must have been written up after 3 o'clock on the 5th?

20          A. It is probably reasonable, yes.

21          Q. Again, that is more than 24 hours after?

22          A. Yes.

23          Q. You explain in your statement -- we don't need this on  
24          the screen, but it's your second statement paragraph 55  
25          as a reference -- that you were sitting beside

## Transcript of the Sheku Bayoh Inquiry

1           Keith Harrower when he made the call and you just heard,  
2           as you put it, the one-sided version?

3           A.   Yes.

4           Q.   So should we understand that to mean Mr Harrower was on  
5           the phone to Ade Johnson?

6           A.   Yes.

7           Q.   He wasn't on loudspeaker?

8           A.   No.

9           Q.   He was simply making a call and you could hear what  
10          Mr Harrower was saying but not what Mr Johnson was  
11          saying.

12          A.   That is correct, yes.

13          Q.   How is that you know that Ade confirmed the family were  
14          not willing to attend the PM for formal identification;  
15          was that based on what you heard of the call or on  
16          something that Mr Harrower said to you afterwards?

17          A.   It would be afterwards.  Him confirming that.

18          Q.   You have recorded that Keith Harrower told Ade the PM  
19          was to go ahead as planned, again was that something you  
20          heard Mr Harrower say or is that something that he  
21          confirmed to you afterwards?

22          A.   I heard him say that, yes.

23          Q.   The plan was for the post mortem to take place that day  
24          about lunchtime?

25          A.   From my understanding -- I can't remember the exact time

## Transcript of the Sheku Bayoh Inquiry

- 1 but I think it was around about lunchtime that day.
- 2 Q. What was your understanding as to the family's knowledge  
3 of the arrangements for the post mortem?
- 4 A. Only what -- what Keith Harrower told me that it was  
5 going ahead as per Crown instructions.
- 6 Q. Again, what about Collette? To your knowledge had  
7 anyone contacted her that morning to discuss the  
8 post mortem arrangements with her?
- 9 A. Not to my knowledge, no. I certainly didn't do it.  
10 I was -- again, going back to what I said earlier, it  
11 was a priority to me, I couldn't understand that concept  
12 of a refusal, that is the first time any family has  
13 refused to identify their loved one, so I wanted to know  
14 more about that and I wanted to make enquiries in  
15 relation to that. Unfortunately I was not successful.
- 16 Q. It was during this call that Mr Harrower asked to visit  
17 the family and introduce family liaison officers?
- 18 A. Yes.
- 19 Q. Ade said he was with a solicitor who would be in touch  
20 on the family's behalf?
- 21 A. Yes.
- 22 Q. I wonder if we can return to the family liaison policy,  
23 and look at page 24 of the PDF. There is a section here  
24 headed, "Viewing and identification of the body":  
25 "The FLO will have a crucial role to play in the

## Transcript of the Sheku Bayoh Inquiry

1 identification process of the deceased. Close liaison  
2 with the SI and Procurator Fiscal concerning the issues  
3 of viewing, identification and body release must be  
4 undertaken by the FLO."

5 I am wondering what liaison you had with the  
6 senior investigator in relation to identification and  
7 what liaison you had with the Fiscal in relation to  
8 identification?

9 A. At that time there was no liaison with me specifically.  
10 Again, going back to what we discussed, the family -- my  
11 information was that the family had refused, and that  
12 was a priority for me, to establish more detail  
13 regarding that and then I would hopeful would have been  
14 in a better position to come back and then speak to the  
15 senior investigator and request consultation with either  
16 senior management, or if need be to have a one-to-one or  
17 a conversation between myself and the Procurator Fiscal,  
18 or Dave Green as it was on this occasion, to put across  
19 the family's request and provide more information.

20 MS THOMSON: Thank you. Can you bear with me a moment.

21 I am mindful of the hour, sir.

22 LORD BRACADALE: We will take a 15-minute break.

23 (3.00 pm)

24 (A short break)

25 (3.16 pm)

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1 LORD BRACADALE: Ms Thomson.

2 MS THOMSON: Thank you. We were looking at the policy  
3 document and it was the section headed, "Viewing and  
4 identification of the body", which is on page 24 of the  
5 PDF.

6 We have looked at the top -- the first two  
7 paragraphs, if I might read on from there:

8 "It must be recognised that the formal  
9 identification procedure and viewing of the body are  
10 separate processes. The formal identification will form  
11 an essential element of the post mortem process. Formal  
12 visual identification of a body may not always be  
13 possible due to the injuries sustained or decomposition  
14 of the remains. The SI, in liaison with the  
15 Procurator Fiscal, will decide what processes will be  
16 employed to establish the identity of the deceased  
17 especially if they are invasive, mutilate or use DNA.  
18 When other forms of identification are to be undertaken,  
19 for example fingerprints, dental charting or DNA  
20 profiling, the process and reasons for it must be  
21 explained in an open and honest manner by the FLO  
22 whenever possible."

23 Returning to the morning of 4 May, Mr Lewis,  
24 I understand that the information available to you at  
25 that point in time was that the family had refused to



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1 identify Mr Bayoh's body. I wonder what was your  
2 understanding as to the alternative arrangements that  
3 had to be made to identify the body?

4 A. I think it was police officers who had done the formal  
5 identification. I am not 100% certain of that but there  
6 had been some form of formal identification to satisfy  
7 the Crown.

8 Q. I don't think we have the post mortem report on today's  
9 playlist, I will be corrected if I am wrong but  
10 I believe that the post mortem report confirms that  
11 formal identification was done by way of fingerprints in  
12 combination with two officers.

13 A. Yes, that -- now you say that, yes it was fingerprints  
14 and two police officers, yes.

15 Q. So were you aware on 4 May, on the morning of 4 May,  
16 before the post mortem took place, that identification  
17 was going to be by fingerprints given what you  
18 understood the family's position to be at that time?

19 A. I think I found out about that later. The formal  
20 identification from memory was two police officers, and  
21 then at a later time which I can't remember, that  
22 fingerprints had also been involved as well.

23 Q. So should I understand that on the morning of the 4th  
24 you were unaware that there was an arrangement for the  
25 identification to take place by fingerprint?

## Transcript of the Sheku Bayoh Inquiry

- 1 A. No, I was aware there had been formal identification,  
2 I just couldn't remember exactly what it was.
- 3 Q. Would you have known about it at the time and you have  
4 forgotten it with the passage of time, or on the 4th did  
5 you understand it to be two officers and you later found  
6 out about fingerprinting?
- 7 A. I think I could only say I knew formal identification  
8 had been done to satisfy the Crown, the actual details  
9 of that I couldn't say right there -- on 4th, as to  
10 knowing that knowledge.
- 11 Q. So you may not have known on the 4th what the process  
12 was going to be?
- 13 A. Yes, correct.
- 14 Q. The policy provides that:  
15 "When other forms of identification are to be  
16 undertaken, the process and reasons for it must be  
17 explained in an open and honest manner by the FLO  
18 whenever possible."
- 19 Although it would surely follow that the FLO would  
20 have to know what the alternative process was going to  
21 be before the FLO could offer any explanation to  
22 a family?
- 23 A. Yes.
- 24 Q. And your evidence is that you didn't know the detail of  
25 it --

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- 1 A. No.
- 2 Q. -- on the 4th? Did you take any steps to ascertain what  
3 alternative form of identification was going to be used  
4 in advance of the post mortem going ahead at lunchtime?
- 5 A. No, as I said, my understanding was it was going ahead  
6 at lunchtime and my priority from the very outset that  
7 morning was to get to Kirkcaldy and just see if I could  
8 do anything to assist in formal identification from the  
9 family's point of view.
- 10 Q. The policy speaks to the FLO having a crucial role to  
11 play in the identification process of the deceased.  
12 I wonder whether you were concerned at the time as to  
13 whether the opportunity for you to play a crucial role  
14 in the identification process was undermined by the fact  
15 that it was half past ten in the morning or thereabouts  
16 and the post mortem was due to take place at lunchtime  
17 and you still hadn't had the opportunity to speak with  
18 the family?
- 19 A. I don't know about undermined but certainly it created  
20 a challenge that I don't think needed to be there. The  
21 time constraints available or at that time was  
22 challenging, of that there's no doubt. And again, just  
23 going back to early contact with the family, whether  
24 that had been the Sunday or even earlier on the Monday  
25 morning, is there something I could have done that would

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- 1           have helped the family in relation to the formal  
2           identification.
- 3       Q.   You said, "The time constraint created a challenge that  
4           didn't need to be there".  What do you mean by that?
- 5       A.   From that point of view of, you know, the time  
6           constraint, the post mortem was going ahead at a set  
7           time, I started at 8 o'clock in the morning and to get  
8           the information I required to then go and speak to the  
9           family to try and get that contact, and I respect the  
10          fact they were taking consultation from a solicitor that  
11          turned out to be Mr Anwar, but even in that short period  
12          of time I would like to think I would be confident of  
13          sorting something out that morning in relation to  
14          identification.
- 15      Q.   So do you feel that if you had had the opportunity to  
16          speak with the family that morning, be it Kadi or Ade or  
17          Collette, then the misunderstanding around the  
18          identification of the body could potentially have come  
19          to light and some action been taken to allow the family  
20          to identify before the post mortem took place?
- 21      A.   Yes, I am confident that had I had that interaction, and  
22          spoken to the family I am confident I would have  
23          resolved that issue.  I am also confident that, as  
24          I said earlier, if it was a case of that is --  
25          the post mortem is going ahead then I would need

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1 something from the Crown Office to explain to the  
2 family, it would be unacceptable just to go and say,  
3 "Well, the Crown have said and that's it". I fully  
4 understand the Crown's position in relation to  
5 an investigation of a death in custody but you still  
6 have to speak to the family: is there a need for that to  
7 go ahead at that time? That was never explained to me,  
8 that it had to go ahead at that time.

9 Q. What was the barrier to you having that conversation  
10 with any member of the family on the morning of the 4th?

11 A. It is -- well, making the phone call and by the time the  
12 phone call was returned to me, and the confirmation of  
13 who my contact was going to be, ie Mr Anwar, by that  
14 time the post mortem had started.

15 Q. Were you concerned on the morning of the 4th that this  
16 combination of circumstances, this perfect storm of  
17 events, the timescale you were working to, difficulty  
18 making contact with the family, was creating a situation  
19 where it was difficult for you to fulfil your  
20 responsibilities in terms of the policy?

21 A. Yes, the initiative had been lost.

22 Q. What do you mean the initiative had been lost?

23 A. Making contact with the family, interacting with the  
24 family, obtaining more information. It's very important  
25 to speak to the family, as I said, probably earlier ...

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1           although I make -- your first contact is an introduction  
2           as to who you are, what your role is and how you will  
3           assist the family moving forward. It is not uncommon  
4           for the family to say, "Thank you very much but I will  
5           speak to you next week, I'll speak you tomorrow or next  
6           week", it is not for me to impose my -- what I want to  
7           do, it is my job to manage their expectations and to  
8           manage their emotions, their anger, their frustration,  
9           and lack of or poor communication only creates  
10          frustration.

11         Q. Given the set of circumstances that presented itself to  
12         you and given your concerns that these circumstances in  
13         combination with the timescale for the post mortem were  
14         making it difficult for you to fulfil your  
15         responsibilities, did it occur to you to say to senior  
16         management or indeed to the Fiscal: hang on a minute  
17         here, it's half past ten, I am not long on duty, I have  
18         just been briefed and appointed as the FLO. I have not  
19         met the family yet and if this post mortem goes head at  
20         lunchtime I will not have the opportunity to fulfil my  
21         responsibilities in terms of the policy to speak to  
22         the family about the need for the post mortem, to speak  
23         to the family about the need for an identification or an  
24         alternative form of identification? Did it cross your  
25         mind on 4 May to have that conversation?

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1       A. I guess I did want to have that conversation but  
2       I didn't want to just go and say: I think we should be  
3       doing this, I wanted to have the information from the  
4       family to have a better picture. Because the question  
5       that would be asked is why, so I would like to have had  
6       more information in relation to that.

7                The timescales involved, as I say, the initiative  
8       had been lost, getting that information, I think, even  
9       if that had just been a phone call, and it wasn't until  
10      after my first meeting with Ade that you had a better  
11      understanding of -- an understanding of their emotion,  
12      their anger, the frustration, the different messages  
13      they had received. All that was -- as you say, was  
14      a perfect storm and the initiative had been lost on  
15      I would say on the Sunday rather than the Monday  
16      morning.

17      Q. With the benefit of hindsight, might it have been  
18      worthwhile having that conversation with senior  
19      management or with the Fiscal on the Monday morning?

20      A. If I had known the information -- I wouldn't just go to  
21      them and say what's happening because it was quite ...  
22      It was very much a case of the post mortem was going  
23      ahead at lunchtime and that's it, and the family have  
24      refused to do formal identification and that was it.

25      Q. Let's go back to page 26, please of this PDF. The

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1 section headed, "Post mortem examination":

2 "The FLO will be required to explain the requirement  
3 for a post mortem examination to establish a cause of  
4 death. The thought of such an examination can cause  
5 considerable distress to families, particularly where  
6 cultural or religious beliefs are contrary to such  
7 a process taking place. In such circumstances FLOs must  
8 proceed with sensitivity, explaining the reasons for  
9 a post mortem."

10 Were you concerned by the lack of opportunity to  
11 discuss the requirement for the post mortem with the  
12 family before it took place?

13 A. Yes.

14 Q. What was your understanding of Mr Bayoh's religion on  
15 the morning of the 4th?

16 A. I can't remember if it was that morning or until I had  
17 spoken to -- I am sure I've got it mentioned it in my  
18 FLO log somewhere but I did find out he was Muslim.

19 Q. Certainly on the morning of the 4th you would have known  
20 that he was a black man?

21 A. Yes.

22 Q. He was born in Sierra Leone?

23 A. Yes.

24 Q. Did that raise in your mind the possibility that he  
25 might have been Muslim?



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- 1 A. Yes.
- 2 Q. What steps did you take to ascertain whether the family  
3 wished any cultural or religious requirements to be  
4 observed in connection with the post mortem?
- 5 A. That was one of the sort of priorities I had as well, at  
6 some point, whether that was through Mr Anwar or through  
7 family contact, I can't remember exactly, but I did  
8 establish those circumstances. Again, from experience  
9 I have had, that experience of dealing with different  
10 religious beliefs, and whether they are practising that  
11 religion or nor not and how will that impact on  
12 post mortems, and how will that impact on moving forward  
13 in relation to the identification of their loved one.
- 14 Q. So you wanted to speak with the family about the need  
15 for the post mortem to take place?
- 16 A. Oh, very much so, yes.
- 17 Q. And you wanted to speak to them about the identification  
18 process --
- 19 A. Yes.
- 20 Q. -- to try to resolve the issue?
- 21 A. Yes, it was a priority for me as far as I was concerned.
- 22 Q. It was a priority. And you also wanted to ascertain  
23 whether there was any religious or cultural  
24 requirements --
- 25 A. Yes.

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1 Q. -- or observations?

2 It is half past ten in the morning and these are  
3 your priorities and the autopsy was due to take place --  
4 I will be corrected if I am wrong but I think it was at  
5 midday, so the clock was ticking. You have said in your  
6 evidence that you were concerned by that. Help me to  
7 understand why you didn't say to senior management or to  
8 Fiscal, "Just put the brakes on this, I need to speak to  
9 this family before this autopsy goes ahead"?

10 A. Whether I specifically said that, but it's -- again,  
11 that is why I said I was going to Kirkcaldy to stay up  
12 at Kirkcaldy, to get access -- hopefully get physical  
13 access to the family to establish that. As you say,  
14 cultural beliefs -- was it a cultural issue that it had  
15 to be delayed or to go back and just say well -- I would  
16 want more information to go back and be able to explain  
17 my rationale on behalf of the family as to why and can  
18 it be delayed.

19 Q. Did it become apparent to you somewhere between half  
20 past ten and midday that you just weren't going to get  
21 that information before the autopsy commenced or that  
22 the likelihood of you being able to have that meeting  
23 with the family and then gather that information to  
24 allow you to make your case to senior management or the  
25 Fiscal wasn't going to happen?

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1       A. No, I was always hopeful, I don't remember the actual  
2       time, being told it was 12 o'clock, I knew the  
3       post mortem was going ahead in the afternoon but  
4       I didn't have an exact time. But I was always hopeful  
5       of making contact with the family. Unfortunately it  
6       didn't happen from a physical contact point of view, but  
7       that is why I was up there, to make that contact, to get  
8       that information.

9       Q. Had you appreciated that the post mortem was going to  
10      start at midday, would there have come a point somewhere  
11      between half past ten and 12 o'clock when, if there was  
12      no contact from the family, if you hadn't had the  
13      opportunity to meet them, introduce yourself and talk to  
14      them about the post mortem and identification, and  
15      cultural and religious requirements, would there have  
16      come a point where you would have spoken to senior  
17      management about your concerns about the timescale  
18      and this post mortem going ahead?

19     A. I think in hindsight I probably -- maybe I could have  
20     gone back to them but what was quite clear to me was  
21     that the post mortem was going ahead, that was it. Full  
22     stop. There was no -- there was no information to me to  
23     say or suggest that there was a -- a possibility of it  
24     being delayed, it was simply going ahead. That was it.

25     Q. What was the hurry?

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1 A. I have no idea.

2 Q. Is that not something you would have wanted to know?

3 A. It's not for me to decide when a post mortem is going to  
4 be. It is for me to liaise with the family and, as you  
5 say and it says there, to pass on that information.  
6 I was surprised that the post mortem was going ahead on  
7 the Monday, I didn't expect it to be that day. But  
8 that is not -- that is outwith my control, I have no  
9 input in relation to that.

10 Q. Was there any reason to your knowledge why it couldn't  
11 have been delayed, if that request had been made?

12 A. Nothing that was explained to me.

13 Q. Can we return to the FLO log, please and look at the  
14 next entry, which I think is page 13 on the PDF. The  
15 next entry is dated 4/5, 14.30 hours, 2.30 in the  
16 afternoon. By this point the autopsy has started. And  
17 if we could scroll up a little bit please, to see what  
18 this relates to. It is:

19 "Personal contact with DC Andy Mitchell and  
20 Wayne Parker."

21 Let's read this entry, please:

22 "Meeting with the above officers who were the first  
23 to attend and speak with the family after the incident  
24 with Police Scotland. Both have submitted full  
25 statements. They made contact and advised family of the

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1 death and that it was a critical incident to be  
2 investigated. They were later given a prepared  
3 statement to be read over verbatim to the family. This  
4 statement thereafter caused issues and complaints from  
5 the family about varying reports of the events."

6 I would like to ask you some questions about this.  
7 We see, if we scroll down just a wee bit, that this  
8 entry was written up at quarter past four in the  
9 afternoon of the 5th, so again more than 24 hours after  
10 the contact.

11 This meeting with Mitchell and Parker, what did you  
12 understand that they had told the family about  
13 the circumstance of Sheku Bayoh's death?

14 A. That at that time they referred to the notebooks and  
15 read out verbatim what they had been told to say to the  
16 family.

17 Q. Who was their meeting with?

18 A. The police officers?

19 Q. Mm-hm.

20 A. I can't remember if it was Collette or Ade.

21 Q. The Inquiry has heard evidence that DC Mitchell and  
22 DC Parker gave Collette Bell the death message quite  
23 early in the morning of 3 May and then took a statement  
24 from her. When I read you the chapter from her evidence  
25 earlier on, where she described not wanting to give the

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1 statement but giving it because she just wanted to see  
2 Sheku, that was a reference to the statement that she  
3 gave to DC Mitchell and DC Parker.

4 The Inquiry has heard evidence that they gave  
5 an entirely separate death message, the one that was  
6 written down verbatim and read out verbatim from  
7 a notebook, to Ade and Kadi later on that day. So I am  
8 just keen to understand who they told you they had  
9 spoken with when you had this conversation with them?

10 A. It may well have been Collette, I can't remember for  
11 definite. Now you say that, I do remember that they had  
12 been up before that and delivered a message and then  
13 they had returned with this verbatim message, I cannot  
14 remember what the first -- because they had already  
15 given statements in relation to that, I knew we had  
16 reference to it.

17 Q. Did they discuss with you at that time any concerns the  
18 family may have raised around there being a racial  
19 element to Sheku's death?

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

21 Q. There is a reference to varying reports of the events,  
22 what did you understand to be the nature of the  
23 complaint that had been made about these varying  
24 reports?

25 A. The different versions of events that had been delivered

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- 1 by different people to the family.
- 2 Q. Can we move on to the next entry in the log, please.
- 3 15.35 hours on the 4th:
- 4 "Text message from Ade Johnson providing the mobile  
5 number of Aamer Anwar, solicitor, and stating he would  
6 act on behalf of the family."
- 7 Which family members did you understand Mr Anwar was  
8 acting on behalf of?
- 9 A. Acting on behalf of the family, that was my  
10 understanding.
- 11 Q. So everybody?
- 12 A. Yes, that is -- referred to -- it says there, "Acting on  
13 behalf of the family", I take that as the family group.
- 14 Q. What effect did a solicitor acting on behalf of the  
15 family have on the way that you would go about  
16 communicating with the family going forward?
- 17 A. I don't know -- how do you mean "effect", what effect  
18 did it have? What do you mean by that?
- 19 Q. Sorry, that's a poor question by me. But you have told  
20 us that Ade was the single point of contact and I am  
21 wondering when the single point of contact tells you  
22 that a solicitor is now representing the family or  
23 acting on behalf of the family, what difference does  
24 that make to the way that you go about liaising with the  
25 family directly. Would it mean, for example, that you

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1 would route all communications through the solicitor or  
2 would you continue to work with the single point of  
3 contact for the family, or potentially both?

4 A. It was made quite clear from the very outset that  
5 communication had to be through Mr Anwar, which wasn't  
6 a problem for me, it was a -- I have experience of that  
7 before as well, so if it meant me contacting Mr Anwar on  
8 behalf of family that was fine. Ideally from experience  
9 I would have liked that contact with him but a higher  
10 level of contact still being delivered by myself to the  
11 family, and keeping Mr Anwar aware of what I was doing,  
12 the contact I was doing.

13 Q. If we can look at the next entry, please. This is 15.40  
14 on 4/5:

15 "Spoke to Amer who confirmed previous entry, no  
16 issues."

17 So when you say that Mr Anwar confirmed the previous  
18 entry, ie that he was representing the family --

19 A. Yes.

20 Q. -- what did you understand that to mean in terms of who  
21 contact should be with from that point onwards?

22 A. With himself.

23 Q. If we can -- did you have a discussion with Mr Anwar  
24 about your expectations of him if all contact was going  
25 to be through him?



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1       A. Specifically, no, I don't remember. It was basically  
2       introducing myself to Mr Anwar and what I expected to be  
3       doing on behalf of the family, and to keep him in the  
4       loop with any communications that we would have in the  
5       future. That was a kind of -- very much an initial  
6       contact with Mr Anwar, I don't think it was  
7       a particularly lengthy telephone conversation. That  
8       was -- as I say, no issues, he was in agreement with  
9       that so I had no issues with that.

10      Q. Can we look at the next entry, please. 15.45 hours on  
11      the 4th:

12                "Telephoned Ade Johnson to confirm I had received  
13      contact details for Aamer Anwar. Ade requested home  
14      visit at 1830 hrs."

15                And you agreed to that home visit. So this entry  
16      demonstrates that even after Mr Anwar was on the scene,  
17      as it were, and acting on behalf of the family, there  
18      was ongoing direct contact with family members?

19      A. Yes.

20      Q. We would see that, would it be fair to say, as a pattern  
21      as we go through the log, that you continued to seek to  
22      make contact with the family directly?

23      A. Yes.

24      Q. If we can just scroll down to the bottom. Again, just  
25      to observe that this entry was also written up the

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1 following day, as with all of the preceding entries.

2 And if we can move on to the next one.

3 Here we have at 17.29 hours a courtesy call to  
4 advise Aamer of the home visit, that would be to Ade?

5 A. Yes.

6 Q. No issues. And again, if you scroll to the bottom,  
7 let's see when that was written up, at 16.30 the  
8 following day. That is a very precise time, 17.29 hours  
9 and the entry was written up the following day. Did you  
10 check your phone to be sure as to the time of that call  
11 or --

12 A. Might have been. It might have been from the phone,  
13 just checking ...

14 Q. Is that the sort of information you would hold in your  
15 memory or would you have made a note somewhere?

16 A. A long time ago, yes, my memory was a lot better. Not  
17 so good now, I would be writing just about everything  
18 down nowadays, but that time, 17.29, I probably took  
19 that off my mobile phone, company phone.

20 Q. Let's look at the next entry. The person contacted is  
21 Aamer Anwar, at 17.48 hours on 4 May. Again, if we can  
22 just scroll to the bottom for a moment, please, to note  
23 that this entry was written up at 16.45 the following  
24 day.

25 Let's look at the content of this entry now:

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1           "Advised Aamer Anwar on result of PM. Unascertained  
2 death subject to toxicology and brain tissue exam.  
3 Asked who the pathologist had been. Unaware at that  
4 time. At the time of the call Aamer had his children  
5 with him. Also asked if he could obtain GP details for  
6 the PIRC to obtain medical records of Sheku for the  
7 pathologist."

8           I want to ask you a number of questions about this  
9 entry. Where did you obtain the results of the  
10 post mortem from?

11       A. Bill Little gave me a phone call.

12       Q. He called you?

13       A. Yes.

14       Q. Is that not the sort of call you would log in the FLO  
15 log? I suppose it wasn't a contact with the family.

16       A. It wasn't contact with the family. It was an update  
17 from Billy as to what had happened. It would have been  
18 just before that, I think.

19       Q. We see that you made the call to Mr Anwar at  
20 17.48 hours.

21       A. Yes, that is correct.

22       Q. Again, can you help us to understand how you were able  
23 to put such a precise time on that call, given that it  
24 was written up the following afternoon?

25       A. Again, that would be from -- probably from the phone,

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1 the mobile phone.

2 Q. There is a record of the timings of the post mortem  
3 prepared -- it is on PIRC-headed notepaper and it is  
4 headed up "Officer's note" and presumably was prepared  
5 by one of the PIRC officers in attendance. Several  
6 individuals from PIRC were present at the autopsy.  
7 I will see if we can get it on the screen if we have it.  
8 It's PIRC 04148. We don't have it and it may not matter  
9 but what it says -- this is on the second page for  
10 anyone who wants the reference, third paragraph down:

11 "The post mortem commenced at 14.00 hours and was  
12 concluded at 17.50 hours."

13 So that tends to suggest -- and it's a matter  
14 of minutes but tends to suggest that the autopsy  
15 concluded after the call that you made to Mr Anwar. But  
16 is it your evidence that the call would have been  
17 timestamped on your telephone?

18 A. Yes.

19 Q. That's the time that you made the call. You have  
20 advised that you heard from Billy Little. He had phoned  
21 you shortly before you made the call to Mr Anwar and he  
22 told you the results of the post mortem.

23 A. Yes.

24 Q. Where were you when you made this call?

25 A. To Mr Anwar? Kirkcaldy Police Office. Out in the

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- 1           backyard away for privacy.
- 2           Q.   In the backyard?
- 3           A.   Yes.
- 4           Q.   Your deputy FLO, John Clerkin, said that he was driving  
5           and you were in the front passenger seat and he thought  
6           that is where you were when the call was made?
- 7           A.   No.  No, I remember -- we may well have been driving at  
8           some point but I remember -- it might well have been  
9           just arriving back at Kirkcaldy Police Office.  The  
10          exact times -- moving about, I don't know, because we  
11          were moving about quite a bit, but I do remember getting  
12          the phone call or making the phone call, but I purposely  
13          stepped out into the backyard of Kirkcaldy Police Office  
14          for privacy.
- 15          Q.   The entry says:
- 16                 "Advised result of PM unascertained subject to  
17                 toxicology and brain tissue exam."
- 18                 How did Mr Anwar react to that information?
- 19          A.   As it says there, he asked who the pathologist had been  
20          and I told him I was unaware at that time.
- 21          Q.   And beyond asking about the pathologist, did he have any  
22          reaction to you sharing with him the result of the  
23          autopsy?
- 24          A.   No.
- 25          Q.   You said in your second Inquiry statement -- we don't

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1           need to bring it up on the screen but the reference is  
2           paragraph 75:

3                     "Aamer certainly didn't express any surprise when  
4           I told him the PM had been completed. There was no  
5           surprise."

6           A. That is correct.

7           Q. You have recorded in the entry that at the time of the  
8           call he had his children with him. How did you know  
9           that?

10          A. I could hear in the background and we had a bit of  
11          conversation about children and looking after them, etc.  
12          That was just a bit of professional courtesy between  
13          both of us.

14          Q. You say "children" rather than "child". Were you able  
15          to tell how many children were with him?

16          A. I could hear the children in the background, and  
17          I probably would have said to him that is it a good time  
18          to speak to him, and he told me he was out with his  
19          children at the time, so -- and it was okay to continue  
20          with the conversation.

21          Q. Did he say where he was?

22          A. No. I don't think so.

23          Q. Did you have an impression as to what he was doing with  
24          the children?

25          A. Me? Other than a father spending time with the

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- 1 children, no.
- 2 Q. Why did you record in the FLO log that he had his  
3 children with him? Why did you think that was  
4 a relevant detail that was worth noting down?
- 5 A. It was -- I could hear in the background that the  
6 children were there, so I was just -- as I say, I was  
7 making sure it was a safe environment to talk to him  
8 about these circumstances. That is all.
- 9 Q. It was at 17.48, which is after the end of the typical  
10 working day?
- 11 A. Yes.
- 12 Q. Given that he had his children with him and you said he  
13 was out somewhere with them, did you form any impression  
14 as to whether he was able to give you and the call his  
15 full attention at that time?
- 16 A. He said he could, so -- I wouldn't have continued the  
17 conversation. If he had said "phone me back", I would  
18 have done that. Or he could have phoned me back.
- 19 Q. You have recorded that you asked him to obtain the  
20 details of Mr Bayoh's GP.
- 21 A. Yes, to obtain the medical records.
- 22 Q. And how did he respond to that request?
- 23 A. I can't remember. I think he said he would go back to  
24 the family. To be 100% certain, I couldn't be specific  
25 about that response.

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- 1 Q. Again this entry was written up almost 24 hours later.  
2 Why wasn't it written up at the time or shortly  
3 afterwards?
- 4 A. There is no specific reason behind it. It was  
5 a suitable time to sit down for me at that time to write  
6 up the entry in relation to it. It's having the time to  
7 prioritise what you need to do and then prioritise what  
8 you write down and taking that time to write it down.
- 9 Q. Because this wasn't just one conversation that you were  
10 holding in your head. By the time you sat down with  
11 your notebook on the afternoon of the 5th you were  
12 holding in your head information relating to the initial  
13 briefing and in relation to the meeting that you had  
14 with Mr Little and Mr Clerkin where the FLO strategy was  
15 discussed and then there was an update in relation to --  
16 from Mr Harrower in relation to the identification of  
17 the body, a further update on that the following  
18 morning, a discussion that you had with DC Mitchell and  
19 Parker, various messages around the appointment of  
20 Mr Anwar as family solicitor. That is a lot of  
21 information to be holding in your head and not to write  
22 up until approximately 24 hours later.
- 23 A. Yes, I appreciate that. The information was, as I say,  
24 at that time I found relatively easy to recollect and  
25 sit down and take the time to do it. It's not a rushed



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1 job. I made a point of finding a quiet place and just  
2 going day-by-day as to what I could recollect and put  
3 down the information in the FLO log.

4 Q. In fairness to Mr Anwar, he was invited to comment on  
5 this entry in your log. We do this by a process that we  
6 call "Rule 8 request" and I wonder if we can bring up  
7 his Rule 8 response now. If we can scroll down, please,  
8 and I will say when to stop. My fault, up a little bit.  
9 It's the bit in the box here:

10 "Did you receive a call from Mr Lewis at 17.48 on  
11 3 May 2015?"

12 And this is Mr Anwar's response:

13 "I had already been told on the 4th May by the  
14 family that they wished to the post mortem to be put on  
15 hold and Ade had told the PIRC that they wished it  
16 delayed until Mrs Aminata Bayoh had arrived and she had  
17 seen Sheku. In conversation with Alistair Lewis this  
18 was reiterated by myself on the 4th May, that the PM  
19 would be on hold. For him to claim that he told me the  
20 post mortem had gone ahead makes no sense."

21 I don't think you will have seen this before?

22 A. No.

23 Q. Take a moment, please, and when you have had the  
24 opportunity to digest that I would invite your comment.

25 A. In relation to the first part, the family had told the

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1 PIRC they wanted it put on hold, that goes back to what  
2 I was told on the Monday; that it was going ahead and  
3 that that was the end of the matter. In conversation  
4 with myself, he didn't reiterate to me that the PM would  
5 be put on hold. It was later that day or later -- might  
6 have been the following day or a couple of days later  
7 that he had told me that the Lord Advocate had indicated  
8 that the post mortem would be delayed, and I went back  
9 to -- in that conversation I went back to this  
10 previous -- this phone call there, explaining the  
11 post mortem and what I had told him that day.

12 Q. I think we will see that as we work our way through the  
13 entries in the logs. Let's return to the log, please,  
14 and move on to the next entry which I think is at  
15 page 19 of the PDF:

16 "20.15 hours on the 4th, phone call to advise  
17 the house at Arran Crescent is to be returned to the  
18 family by 22.00 hours."

19 This is a contact at 20.15 on the 4th. We have just  
20 looked at a phone call to Amer Anwar at 17.58 hours and  
21 if you take it from me, we will come to it shortly, the  
22 next entry relates to a home visit at 18.30 hours. So  
23 this one is out of sequence?

24 A. This one -- I would need to look at it in context.

25 Q. Let's do that. Remember you've got a hard copy of the

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1 FLO log in front of you, but let's just look at the  
2 previous page for a moment, please. The previous page  
3 being the phone call to Aamer. If we go to the top  
4 where we can see the time of that contact, it is at  
5 17.48 hours on the 4th. And then if we scroll down, the  
6 entry that we are about to look at relates to contact at  
7 20.15 hours on the 4th of the 5th. Then if we scroll  
8 down for completeness to the next entry, it's dated  
9 18.30 on the 4th of the 5th. So it appears that the  
10 20.15 entry is out of sequence?

11 A. Yes. Out of sync, yes.

12 Q. Is there any particular reason for that?

13 A. No, I can't -- I couldn't -- certainly that day, having  
14 met the family, the priority for them was to get -- at  
15 that time they wanted the house back and that was  
16 something that I sort of prioritised, having met them,  
17 to get back and speak to Bill Little in relation to  
18 that. So it was simply just out of sync. That's all.

19 Q. It might make more sense then if we look at the entry  
20 that relates to the home visit, and that might give some  
21 context to the entry that is out of sync that relates to  
22 the return of the house. So this entry relates to -- if  
23 we can scroll up a little bit further, please, so we can  
24 see the top of the page. It is personal contact with  
25 Ade Johnson and family 18.30 hours on the 4th of the

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1           5th:  
2           "Home visit as requested by Ade Johnson. Initially  
3           this visit was an introduction to Ade and to obtain a  
4           list of clothing required by the partner, Collette, as  
5           the house still secured by Police Scotland. Myself and  
6           John Clerkin then subjected to intense questioning by a  
7           large contingent of the family, occasionally hostile and  
8           frustrated about what Police Scotland had done or told  
9           the family differed from that of the PIRC. Eventually  
10          managed to speak to Ade at the front door and placate  
11          him and explain our role. He reiterated Aamer Anwar  
12          would be contact for the family. Also obtained a list  
13          of clothing. Family requested a female officer recover  
14          articles from the house. Further explained  
15          Crown-directed role. Report to the COPFS. I will  
16          continue to update the family. There may be occasions  
17          I will not be able to answer questions as it may  
18          compromise any Crown decision. However, this is a very  
19          early stage of the inquiry and a significant amount  
20          of information and witness statements require to be  
21          obtained."

22          So I would like to ask you some questions about this  
23          entry. So the purpose of the visit, according to the  
24          entry, was an introduction to Ade, as well as to obtain  
25          a list of clothing. If we can perhaps go back to the

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1 family liaison policy for a moment at page 21 of the  
2 PDF. Thank you:

3 "Working and communicating with a family. The  
4 conduct of the first contact with a family is vital in  
5 laying the foundations for a successful partnership."

6 Would you agree with that?

7 A. Yes.

8 Q. "At no time must a family be deliberately misled.  
9 Contact must be honest and, as far as possible, open.  
10 It is of paramount importance that families are treated  
11 appropriately, professionally, with respect and with  
12 consideration given to their needs. Investigators must  
13 never make assumption as to the particular needs and  
14 expectations of a family."

15 Again, would you agree with that?

16 A. Yes.

17 Q. I want to ask you some questions about your preparation  
18 for this meeting with the family. It was at half past 6  
19 on 4 May, so almost 36 hours after the events at  
20 Hayfield Road on the morning of 3 May. If we can look  
21 at page 21 again of the policy. That is perfect. Just  
22 down a tiny bit, please. Thank you. Stop there,  
23 please. Three paragraphs down:

24 "One of the primary concerns of family members will  
25 be the need for information. The trauma of bereavement

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1 can be compounded by the frustration of not knowing the  
2 surrounding facts. The victim's family must be provided  
3 with the timely sharing of all possible information so  
4 far as the investigation permits. The FLO should have  
5 direct communication with the SI in connection with  
6 their role and issues concerning the family. Any  
7 information released to the family must first be  
8 authorised by the SI."

9 Now, you were aware from your discussion with  
10 DCs Mitchell and Parker that the family had raised  
11 issues and concerns -- sorry, issues and complaints  
12 about varying reports of the events. Should we  
13 understand that to mean the events at Hayfield Road?

14 A. Yes.

15 Q. What had happened to Sheku Bayoh. Any family, I think  
16 it would be fair to say, who have lost a loved one  
17 following police contact will want to know what has  
18 happened. What did you do to inform yourself about what  
19 was known about the circumstances at that time?

20 A. The circumstances, my understanding was that it was just  
21 the two police officers who had had contact with the  
22 family, and that was my information at the time. The  
23 only other information I had outwith that was from the  
24 briefing that day. So, again, the priority of getting  
25 in contact with the family to get their version of

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1 events and understand their frustrations. Because it  
2 had already -- it had been made aware to me I think by  
3 the two police officers that the family were obviously  
4 frustrated about the different versions of events. So  
5 I would -- my opportunity there was to try and establish  
6 just exactly what had happened, and their frustrations.

7 Q. When you say you wanted to establish what had happened  
8 as far as the family were concerned, do you mean in  
9 terms of the contact that they had had with officers  
10 from Police Scotland?

11 A. The contact that they had had and, as I say, I was aware  
12 of the different version of events that had been  
13 provided to them. And after the introduction, which is  
14 normal practice, is to introduce yourself and contact  
15 details, it was quite clear from the family that --  
16 and understandably their anger and frustration to the  
17 different versions of events which they provided to me  
18 at that time and their concerns about -- one thing that  
19 sort of sticks out is that they were under the  
20 impression that we had control of Arran Crescent,  
21 whereas I had been told that it was Police Scotland's  
22 responsibility for that. We did not have control over  
23 that. So that to me was, well, where has that  
24 information come from to the family and I need to  
25 clarify that and how did that get there. It is

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1           difficult to establish that information in such a short  
2           space of time. But understanding their -- and I do  
3           understand their anger and their frustration and  
4           the emotions. It is quite -- obviously it goes without  
5           saying it is a traumatic situation they are in.

6           Q. So this was a family who had been provided with  
7           different accounts of the events at Hayfield Road?

8           A. Yes.

9           Q. And this had led to anger and frustration?

10          A. Yes.

11          Q. So what did you do to inform yourself about what was  
12          known of the circumstances at that time?

13          A. Again, from speaking to the police officers and  
14          reviewing what we had, the information -- the  
15          information I had in relation to the briefing paper.  
16          Again, it goes back to I would have preferred to have  
17          been in earlier to speak to the family and establish  
18          their side of -- or get more detail from what they had  
19          been told.

20          Q. There are two separate issues here, I think. There is  
21          the family's concerns and complaints that they had been  
22          provided with different accounts and there is their need  
23          for truth, there is their need to understand what  
24          happened on the morning of 3 May at Hayfield Road. What  
25          did you do to in-gather information that might assist



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1 the family beyond going back to your briefing note?

2 A. As I say, my priority was to speak to the family to  
3 clarify what they had been told and get more information  
4 in relation to that.

5 Q. At this point in time I am not concerned with what the  
6 family had been told, I am concerned with questions the  
7 family might have wanted to ask you about what had  
8 happened to Sheku. Because the briefing note, you will  
9 recall, says that the officers who attended  
10 Hayfield Road saw him in possession of a knife  
11 approaching them, they drew their batons and spray,  
12 a struggle then ensued, and you have given evidence that  
13 you understood that to be accurate. It must surely have  
14 occurred to you before you went to meet with this  
15 family, knowing as you did that they had been provided  
16 with different versions of events and that they were  
17 angry and frustrated as a result of that, that they  
18 would want you to tell them what had happened to their  
19 loved one.

20 A. That is correct. I agree with that. The information  
21 that I had at that time from the briefing and from the  
22 police officers, that was my information at that time.

23 Q. And I understand from the policy that any information  
24 that a FLO can make available to a family about the  
25 circumstances of an incident has to be approved in

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- 1 advance by the senior investigating officer?
- 2 A. Yes.
- 3 Q. Is that right? So what discussions did you have with  
4 the senior investigating officer about the information  
5 that you could give to the family when you met with them  
6 about the circumstances of Sheku Bayoh's death?
- 7 A. I can't remember if I spoke to Bill Little directly, but  
8 there certainly was -- before I spoke to the family and  
9 in conversation with Billy, apart from the update in  
10 relation to the post mortem result, there was no other  
11 information to confirm or deny the information that we  
12 already had at that time. So what I had at that time  
13 was information that as far as I was concerned was  
14 accurate, and to go to the family with.
- 15 Q. And what you had at that time was that the officers on  
16 arrival at Hayfield Road saw Mr Bayoh in possession of  
17 a knife approaching them, they drew batons and sprays  
18 and a struggle ensued?
- 19 A. That was the information I had, yes.
- 20 Q. Did you have authority from the senior investigator to  
21 share that information with the family as the events as  
22 you understood them at that point in time?
- 23 A. That was the information I had. The authority to get  
24 specific authority but I didn't -- that was information  
25 that I had, so there was no specific guidance or

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1 authority to provide information. But it was  
2 information I had at the time. In fairness, from the  
3 family's point of view, it was quite clear from the  
4 first interaction that their anger and frustration was  
5 about that information and the different versions of  
6 events that they had. I do remember Ade giving me two  
7 or three different versions of events and that was more  
8 information that I had obtained from the family than  
9 I did through the police investigation or our own  
10 information at that time. So, again, that was  
11 information being clarified by the family, if you like,  
12 as to what they had been told.

13 Q. When you went to see the family did they ask you: tell  
14 us what happened?

15 A. They wanted to know what happened.

16 Q. And did you share with them the information you have  
17 recorded in your full log that was provided to you at  
18 the briefing?

19 A. I can't remember if I went into that detail, because  
20 there was -- the anger was they wanted to know the right  
21 information and they wanted access back to  
22 Arran Crescent. So that was -- and the list that they  
23 required for [REDACTED] was a priority for them at that time  
24 as well. So the plan was to -- or my plan then was to  
25 go back and provide that information to Bill Little

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- 1           and to get clarification about releasing the house.
- 2           Q. You said the family wanted the right information. Did  
3           you have any concerns about the accuracy of what you had  
4           written down following the briefing?
- 5           A. I never take -- again, it's a briefing paper, so I would  
6           never take -- until somebody had told me it is 100%  
7           accurate I would just assume -- or wouldn't assume, but  
8           I would take that as a briefing paper, and our  
9           investigation -- all the questions that the family were  
10          asking me at the time were all questions that, as a FLO  
11          and as an investigator and as part of the investigation  
12          itself, were all part of that investigation. How did  
13          that information get -- or those different versions of  
14          events get to the family and how -- what caused those  
15          different versions of events.
- 16          Q. Did you provide this version of events to the family.
- 17          A. I don't specifically remember giving that version of  
18          events because, again, it was quite clear that they had  
19          already received multiple versions of events. So  
20          I personally don't remember giving that information to  
21          aggravate the situation, because again it would be  
22          another version of events.
- 23          Q. Did you know by the time of your visit that Sheku Bayoh  
24          had not in fact been in possession of a knife?
- 25          A. At the time of the home visit? No, I wasn't aware of

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1           that.

2           Q. Can we look at page 19 of the family liaison policy,  
3           please. Thank you. The second paragraph from the top:

4                     "The FLOs must meet with the family as soon as is  
5           reasonably practicable after deployment. Before meeting  
6           with the family the FLO will ..."

7                     And there is a list of bullet points, and I want to  
8           ask you about two of them. The third bullet point down  
9           says:

10                    "Establish the extent of previous police contact  
11           with the family since the incident or death."

12                    And beneath that:

13                    "Establish what information has been passed to the  
14           family prior to their deployment, to whom and by whom."

15                    What did you do to establish what information had  
16           been passed to the family before you went to this  
17           meeting with the family?

18           A. Speaking with the two police officers. My information  
19           was that they were the only officers that had spoken to  
20           the family.

21           Q. Did you take any steps to establish whether any other  
22           officer had had contact with the family?

23           A. At that point my information was that that was it; that  
24           was the two police officers who had spoken to the  
25           family. I don't think it was until I actually spoke to

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1 Ade, that it was Ade and Kadi who informed me that  
2 Mr McEwan and they described it I think as a female  
3 Chief Inspector had been up. But that was news to me  
4 when I arrived.

5 Q. Can we look at your second statement, paragraph 71,  
6 please:

7 "I have been shown my PIRC statement which records  
8 that at 1600 hours I attended a Police Scotland  
9 Gold meeting chaired by Assistant  
10 Chief Superintendent Nicolson. At this meeting Chief  
11 Superintendent Garry McEwan expressed concern that the  
12 family of Sheku Bayoh were unhappy with PIRC and their  
13 lack of contact. I expressed my surprise as I had  
14 spoken to Ade Johnson and had a positive call. I was  
15 walking through Kirkcaldy Police Office when  
16 Garry McEwan came out and said, 'Are you from PIRC? Can  
17 you sit in on this meeting?' Which I did without any  
18 issues. And that is when he says there, he mentioned  
19 that the family were not happy about the PIRC and  
20 I could not understand that because it was a positive  
21 telephone conversation I had had. It says there I had  
22 spoken to Aamer Anwar to introduce myself to him and  
23 I think I suggested to him that it was important that  
24 I spoke to Ade, which he agreed with. I think it was  
25 either six or half past six that night that Ade would be

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1 available and then we had this Gold Group meeting and  
2 I was surprised by his comments. I asked what was his  
3 reason for thinking that and he basically said he had  
4 spoken to the family. At that time I did not know he  
5 had spoken to the family or had been to visit the family  
6 on that day along with Nicola Shepherd, Chief Inspector  
7 at the time. I had no knowledge of that meeting. Had  
8 he expressed or told me that he had been there at  
9 a physical meeting with the family, I would have spoken  
10 to him before meeting Ade and the family."

11 Can we scroll up a little bit, please:

12 "I asked what was his reason for thinking that and  
13 he basically said he had spoken to the family."

14 Were you aware before you went to the Johnsons'  
15 house that Garry McEwan had spoken with the family?

16 A. Yes, that would be correct. I took that as a telephone  
17 call to the family.

18 Q. Why didn't you ask him about?

19 A. In hindsight, yes, I should have asked him for more  
20 information in relation to it that. Prior to  
21 speaking -- it was -- as I say, it was Ade that gave me  
22 more information about that visit.

23 Q. From the point of view of you informing yourself as to  
24 what contact police officers had with the family, in  
25 advance of your meeting, did it make any difference

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1           really whether Garry McEwan had spoken to the family  
2           over the phone or in person?

3           A. Yes, it would have -- well, yes it would have made  
4           a difference, it could have probably given me more  
5           information about what he had spoken to the family  
6           about.

7           Q. But it is still a contact with the family?

8           A. Yes.

9           Q. And without asking further you wouldn't know whether it  
10          was a --

11          A. That's correct, yes.

12          Q. -- personal contact or a phone call, or the length of  
13          that contact or what was exchanged during that contact.

14          A. I think I was more -- I wouldn't say taken aback but  
15          I was surprised that he was telling me that the family  
16          were not happy with the PIRC, and that is -- my response  
17          was I couldn't understand that because I had had what  
18          was a positive telephone conversation with Ade. So in  
19          hindsight yes, I probably should have probed it with  
20          more detail. That was -- to me that was just a --  
21          a phone call, and he was passing on the family's  
22          discontent with the PIRC.

23          Q. How would it have helped you to have known in advance  
24          about his meeting with the family?

25          A. Yes, it would have been -- well, from what Ade told me



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1           it would have been beneficial to have known Mr McEwan's  
2           version of events.

3           MS THOMSON: Sir, I am going to move on. I wonder if this  
4           is a convenient point to adjourn.

5           LORD BRACADALE: Very well.

6           Mr Lewis, we will continue your evidence on  
7           Wednesday of next week. The Inquiry will hear the  
8           evidence of Mr Little tomorrow and on Tuesday. The  
9           Inquiry will now adjourn.

10          (4.15 pm)

11                 (The Inquiry adjourned until 10.00 am on Friday,  
12                                 9 February 2024)

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