

Transcript of the Sheku Bayoh Inquiry

Friday, 1 March 2024

(10.00 am)

MR ALISTAIR LEWIS (continued)

Questions from MS THOMSON (continued)

LORD BRACADALE: Good morning, Mr Lewis. Thank you for coming in at short notice today to continue with your evidence. That has been a help to the Inquiry's timetable.

Ms Thomson.

MS THOMSON: Good morning, Mr Lewis.

A. Good morning.

Q. You began your evidence on 8 February and when we adjourned at the end of the day I had begun asking you questions about your visit to Kadi and Ade Johnson's house at 6.30 in the evening of 4 May.

A. Yes.

Q. I had asked you some questions about what you did to prepare for the meeting and I would like to ask you some questions now about the meeting itself. I wonder if it might be helpful to start by refreshing our memory of the entry in the FLO log given your evidence was some time ago now.

So the PIRC reference is 04150, you are a step ahead of me, and it's page 20 of the pdf. So here we are:

"Ade Johnson and family."

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1 Personal contact, 18.30 hours on 4/5/2015:

2 "Home visit as requested by Ade Johnson. Initially
3 this visit was as an introduction to Ade and to obtain
4 a 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
7 a large contingent of the family, occasionally hostile
8 and frustrated about what Police Scotland had done or
9 told the family differed from that of the PIRC.

10 "Eventually managed to speak to Ade at the front
11 door and placate him and explain our role. He
12 reiterated Aamer Anwar would be contact for the family."

13 If we can move on to the next page, please:

14 "Also obtained a list of clothing. Family requested
15 a female officer recovers articles from the house.

16 "Further explained Crown directed role. Report to
17 the COPFS. I will continue to update the family. May
18 be occasions I will not be able to answer questions as
19 it may compromise any Crown decision. However this is
20 a very early stage of the Inquiry and a significant
21 amount of information and witness statements require to
22 be obtained."

23 If we scroll to the bottom of the page. We will see
24 that it was written up at 17.00 hours on 5 May 2015.

25 You mention there a large contingent of the family,

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1 how many people were in the house?

2 A. I can't remember the exact number but at least a dozen.

3 Family and friends I think it was more than all family.

4 Q. Was Collette Bell there, do you recall?

5 A. Yes.

6 Q. You say that the family and friends:

7 "... were potentially hostile and frustrated about
8 what Police Scotland had done or told the family
9 differed from that of the PIRC."

10 What had Police Scotland told the family that
11 differed from what the PIRC were now telling them?

12 A. I think there was a general different -- the family are,
13 quite understandably, frustrated about the different
14 versions of events of what had happened to Sheku from
15 the police officers, from Garry McEwan, and how that
16 differed and how had that happened. Which was part of
17 our enquiry from the very outset.

18 Q. I wonder if we can go to your second Inquiry statement
19 and look at paragraph 80 of that. You say in your
20 Inquiry statement:

21 "That is why we are there to take these questions,
22 to take that sort of frustration and report it back to
23 the investigation. It was quite clear from that home
24 visit the family and friends had been there when
25 different messages had been delivered, different

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1 information had been provided by different people from
2 Police Scotland and was understandably causing them
3 a high level of anger, frustration and hostility.
4 I needed to feed that back into the investigation, and
5 on that occasion it was going back to Billy Little
6 specifically about the house."

7 I gather there was an issue in relation to scene
8 management of the house too?

9 A. Yes.

10 Q. "I asked Billy, unless there is something that you or
11 Police Scotland can tell me, can we get this house back
12 sooner rather than later or get it released from
13 Police Scotland's scene management, which we achieved."

14 So if we could scroll back up to the beginning of
15 that paragraph, please. You mention there the need to
16 feed the concerns back into the investigation. So what
17 exactly was the issue that you needed to feed back into
18 the investigation?

19 A. The family's frustration about different messages, and
20 the house itself, I think from memory Ade had been told
21 by Garry McEwan that we had control of the house when in
22 actual fact it was Police Scotland that had control of
23 the house. So I had Ade's version of events and it was
24 something I had been given prior to meeting the family
25 so I had to clarify that and I was concerned that I had

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1 missed something from the briefing I had received. So
2 it was important, I felt, to get back to feed that back
3 into Billy and to ascertain just exactly was I wrong,
4 had I been given the wrong information, and to get that
5 resolved sooner rather than later because it was clearly
6 from Collette's point of view of course, for personal
7 items she required for young [REDACTED] it was important they
8 got back into the house. So if I could achieve that
9 I saw that as a priority for the family.

10 Q. So there were two separate issues then. There were the
11 different version of events that had been provided and
12 then some confusion around who was responsible for scene
13 management and who had control of the house?

14 A. Yes.

15 Q. So what then did you feed back into the investigation?

16 A. Speaking to Billy -- I went back to Kirkcaldy Police
17 Office and spoke to Billy Little and clarified the
18 situation, and asked for him to -- I think he was either
19 in a meeting or about to go into a meeting, I can't
20 remember exactly, with senior officers within
21 Police Scotland. As I said, if we can get the house
22 back, I think it would have been a major step forward
23 from the family's point of view.

24 Q. I think we will see as we go through the log you that
25 succeeded in having the house returned to the family

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1 that evening?

2 A. Yes.

3 Q. But leaving the issue around control of the house and
4 scene management of the house to one side and returning
5 to the concerns that were expressed around different
6 versions of events being provided to the family, what
7 you did feed back into the investigation in relation to
8 those concerns?

9 A. It was the frustration from the family. Understandably.
10 Bearing in mind we were dealing with a family who
11 have -- are experiencing -- I think a traumatic
12 situation is an understatement, but to get that
13 information back to clarify what is going on. Obviously
14 it is first contact, and it is an introduction as to my
15 role and what I will be able to provide as a support
16 mechanism, and manage that information between myself
17 and the family. So I knew about the different messages,
18 I can't remember the detail of that but I know it is
19 recorded as a result of the investigation, and how did
20 that come about, and that frustration was quite clearly
21 significant for the family, so I saw that as a major
22 priority to get it resolved.

23 Q. Who did you feed that back to?

24 A. That was back to Billy again.

25 Q. Do you know what steps were taken to resolve that issue?

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1 A. He went into the meeting and he came back out and it was
2 as you said, we managed to secure to get the house back
3 to the family, albeit it was later that night.

4 Q. Sorry, I am less concerned about the house and more
5 interested to know what was done to resolve the family's
6 concerns that they had been given different versions of
7 events?

8 A. Again, that was part of our -- I said to Ade at the time
9 that was part of our investigation: how did they
10 manage -- how did Police Scotland deliver so many
11 different messages to cause frustration to the family.
12 So we were aware of that and that was part of the
13 process: how did that happen? And we did, through
14 investigation, clarify that.

15 Q. How did that -- how did you go about that task of
16 clarifying these different messages that had been
17 provided?

18 A. It was obtaining -- well, as the investigation
19 progressed obtaining statements from the family to
20 clarify it from the officers involved in delivering
21 those messages.

22 Q. Can we look at paragraph 81 of your statement, please:
23 "I have been asked, in a situation like this, where
24 there was frustrations caused by differences in what the
25 family had been told, if the FLO log would be used to

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1 note details of what those differences were. The main
2 concern for the family was at that time the different
3 messages that were being given, but also the return of
4 the house, Collette's house, for them to get access to
5 it. I knew -- bearing in mind this was our first
6 contact with the family -- I knew we would be coming
7 back at some point very soon to get a statement, so
8 I wouldn't go into any great detail within the FLO log
9 because I knew I was coming back and, having been aware
10 of that, that's information that you that feed back, and
11 we had a major incident room running from the very
12 outset. It's for me to feed that information back into
13 the morning briefings into organisation, and then when
14 I went to speak to Ade, he was able to highlight the
15 information -- the same with as Kadi as well -- as to
16 what they had been told and we would have spoken to
17 Collette and her mother, Lorraine. All this information
18 was repeated by all of them as to what they had been
19 told, different accounts of it. I would not go into the
20 detail of that because I knew I would be going back to
21 speak to them to get a full statement."

22 I am wondering how you were able to feed back their
23 initial concerns or concerns expressed to you initially
24 if you didn't make a note of what those concerns were at
25 the time?

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1 A. It was a verbal update, it went straight back to --
2 I mean, I effectively left the house, the family home,
3 and went straight back to Kirkcaldy Police Office, so it
4 was fresh in my mind, there was nothing to --
5 I thought -- I failed to write down at that time because
6 it was quite clear what the frustrations were that the
7 family had in relation to messages that had been
8 delivered by Police Scotland.

9 Q. You say in your statement:

10 "I would not go into the detail of that because
11 I knew I would be going back to speak to them to get
12 a full statement."

13 A. Yes.

14 Q. I want to ask you some questions about that. I wonder
15 if we can look at the statement that was taken from
16 Collette Bell. It's PIRC 000028. Taken by
17 John Clerkin, but in your presence. I would like us
18 just to scroll through this quite quickly. We see it
19 was taken on 8 May, 3.15, by John Clerkin in your
20 presence. If we scroll down, stop please. I will go
21 through each paragraph but quite quickly.

22 In the first paragraph there is some background
23 information. She goes on to say in the second paragraph
24 that she previously provided a statement to officers on
25 3 May. She says:

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1 "... there are a number of matters that I now wish
2 to make clear. These matters relate to inaccuracies
3 that I have observed in the police statement. These
4 matters are listed as follows ..."

5 Carrying on from there, there is a paragraph about
6 a boxing match. And the next paragraph is about knives
7 in the cutlery drawer and then there's a paragraph about
8 fridge magnets, and a paragraph about contact with her
9 mother. She then moves on to talk about contact with
10 the officers on 3 May. And then beneath that there is
11 information about Sheku attending the gym. And if we
12 carry on a little further she says:

13 "I now wish to confirm some further points to PIRC.

14 "Sheku is a Muslim. I would not describe him as
15 a strict Muslim. It might be fair to say that he had
16 his own way. However, I do know that he did pray each
17 day. He was not concerned that I was non-Muslim but he
18 did wash in preparation of prayer. It is fair to say
19 that he took his prayers quite seriously."

20 Staying with this paragraph just for a moment, you
21 weren't the lead interviewing officer here but you were
22 present when this statement was taken. Why was it
23 thought relevant as at 8 May to ask Collette about
24 Sheku's religion?

25 A. We didn't ask, she confirmed -- she wanted to confirm

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1 some further point to us.

2 Q. She wanted to confirm that to you.

3 A. Yes.

4 Q. So she volunteered that information --

5 A. Yes.

6 Q. -- unprompted. Okay.

7 In the next paragraph down we see John Clerkin is
8 asked questions about drink and drugs. And then the
9 paragraph beyond that again is about drugs and smoking.
10 If we keep going she describes Sheku as:

11 "... a family man who enjoyed the company of his
12 friends and family members."

13 And she lists some of his interests. Then beneath
14 that there is a paragraph about them being in a mixed
15 race relationship. If we carry on, please. There is
16 a paragraph concerning Sheku's views towards the police,
17 and then Collette goes on to talk about feeling numb and
18 nothing makes sense to her, and then she read over her
19 statement and signed her statement.

20 So it appears that there is nothing at all in her
21 statement about the different accounts that were
22 provided to her.

23 A. Well, I would need to see the statements from the
24 officers but I think we already had that information
25 from the officers as to what their account had been

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- 1 given to the family, so that was already there.
- 2 Q. But was not important to get Collette's version of what
3 she had been told?
- 4 A. I think -- well, having been covered and she has
5 volunteered information in relation to that, so it was
6 covered without going back over the detail of it as it
7 was apparently -- my information was we already had that
8 information about --
- 9 Q. But it is not covered in her statement?
- 10 A. No, no it's not.
- 11 Q. You appreciated I think when you met with the family at
12 the Johnsons' home address that the different versions
13 of events were causing anger and frustration --
- 14 A. Yes.
- 15 Q. -- to the family, and you had said in your statement
16 that it had been your intention to speak with the family
17 members, you said you would speak to Ade and Kadi and we
18 would also speak to Collette and that is why you didn't
19 make a note in the FLO log at the time?
- 20 A. Yes.
- 21 Q. I am just interested to know why, a few days later when
22 you and Mr Clerkin did speak with Collette, this issue
23 doesn't appear to have been canvassed with her?
- 24 A. From memory it was already recorded in different
25 statements so~... As you say, maybe it would have been

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1 better to include it again in her statement but my
2 understanding was that that had already been covered in
3 a previous statement, so we had that record of
4 information and this was more about her thoughts and her
5 frustrations with what had happened.

6 Q. So your understanding is that Collette had already given
7 a statement in relation to the different versions of
8 events that had --

9 A. Yes, I think she had already given a statement to the
10 police prior to our involvement on Sunday, I think.

11 Q. I will be corrected if I am wrong but so far as I am
12 aware the only statement that she gave prior to the
13 statement that you took from her on the 8th was the
14 statement that she provided to DCs Mitchell and Parker
15 on the 3rd.

16 A. Yes, I think that is the statement she provided. That
17 is the statement I am aware of.

18 Q. That statement was given immediately after she was
19 provided with the death message?

20 A. Yes.

21 Q. And before she had later made her way to Kadi and Ade
22 Johnson's home address, which was the point in time when
23 the officers returned and gave further information and
24 later on Garry McEwan attended the address and gave
25 further information?

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- 1 A. Yes, I think that is right. Yes.
- 2 Q. So of the different versions of events that may have
3 been provided to Collette Bell, she had only received
4 one such version of events at the point in time that she
5 gave her statement on 3 May and at the point of giving
6 that statement there was no competing or conflicting
7 information available to her?
- 8 A. I take that on board. My understanding was she had
9 given a statement prior to us, so that is why we were
10 back up to take our -- get our statement from her.
- 11 Q. What did you do to check whether these points had all
12 been adequately addressed in her earlier statement?
- 13 A. I personally wouldn't have done it because John was
14 dealing with that one so he would have looked at the
15 information in relation to and that was him dealing with
16 that statement.
- 17 Q. Looking back, do you think it might be better if that
18 check had been made?
- 19 A. Now that you say that that information wasn't included
20 in her first statement, yes it would have been better to
21 have more information surrounding that to clarify the
22 family's frustration.
- 23 Q. The information couldn't have been included in her first
24 statement because her first statement was noted before
25 the subsequent versions of events were provided to her?

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1 A. Yes, I appreciate what you are saying. My recollection
2 was we had that information so obviously you have
3 clarified for me that we didn't have all that
4 information so ... Yes, it would have been better to
5 have clarified more of that information in the statement
6 that myself and John obtained.

7 Q. Can we look at a subsequent statement that you noted
8 from Collette Bell. This is PIRC 000029. This was
9 noted some time later on 6 July of 2015. Noted by
10 yourself, and Investigator Karran, if we can scroll
11 down, it's a very short statement.

12 Essentially you showed her three knives, and she
13 identified the knives as coming from her home in
14 Arran Crescent and she signed labels of identification
15 for the three knives.

16 Can I pause just to ask why she wasn't shown the
17 knife that was recovered from Hayfield Road?

18 A. I don't know, to be honest. I vaguely remember us going
19 back up to Victoria with those knives. I don't know.
20 I can't remember, to be honest, why we didn't have that.
21 I don't know ... I can't recollect why we didn't have
22 the knife carried by Sheku.

23 Q. You would have been interested to know, I imagine,
24 whether the knife that was recovered from Hayfield Road
25 was a knife that had come from Collette's kitchen --

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- 1 A. Yes.
- 2 Q. -- in Arran Crescent?
- 3 A. Yes. I think that is why we went back up. I am sure
4 the knives were from the home address and it was to
5 clarify if they were -- basically were those three
6 knives from the house, which she did belong -- she said
7 they belonged to herself and Sheku.
- 8 Q. Well, those were knives that had been seized from her
9 house by the police.
- 10 A. Yes.
- 11 Q. So it's perhaps unsurprising that she was able to
12 confirm that they were her knives?
- 13 A. Yes.
- 14 Q. But I am curious to know why the opportunity wasn't
15 taken to show her the knife that had been recovered from
16 Hayfield Road, give her the opportunity to tell you
17 whether or not it had also come from her house?
- 18 A. Yes, I agree with that. I can't remember how this
19 action came about, it was an action that came out from
20 the incident room, to go back up and do that. It may
21 well have been beneficial to have had the other knife as
22 well as a comparison.
- 23 Q. Okay. If we return to the statement, I think that is
24 the end of it but if we can just ensure that there is
25 nothing further. That is indeed the end of the

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1 statement. So this is a second statement noted by the
2 PIRC from Collette Bell and again there is nothing in
3 here about the different version of events that were
4 provided to her. Is there?

5 A. No. No.

6 Q. You also noted statements from both Kadi and
7 Ade Johnson, I don't think we need to go to them but
8 Mr Johnson's statement is PIRC 00106 and you took that
9 statement on 13 May. There is detail in his statement
10 about the different versions of events that were
11 provided to him; do you remember taking that detail from
12 him?

13 A. I remember being there, yes, and taking the statement.

14 Q. And Kadi Johnson's statement is PIRC 00252. It was
15 noted on 6 June, so that's over a month late. Again,
16 the different versions of events that she had heard are
17 covered in some detail in that statement; do you
18 remember taking that statement --

19 A. Yes.

20 Q. -- too and covering that --

21 A. Yes.

22 Q. -- detail with her?

23 So Ade's statement was noted on 13 May, Collette's
24 [sic] on 6 June, and the different versions of events
25 were covered in those statements, but as we have

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1 discussed there is nothing in the statements that
2 the PIRC took from Collette Bell.

3 I wonder, looking back, whether it might have
4 assisted you in feeding back the family's concerns if
5 you had made a record of Collette's concerns to feed
6 back.

7 A. Probably would. I mean, every statement is taken -- we
8 had what's been described as a major incident room
9 running, so all statements go back into the major
10 incident room and there are people within that room
11 who -- their job is to look through statements and read
12 through statements and if there's anything that comes
13 out that needs clarification, again that comes back out
14 and would be actioned to go back and speak to witnesses
15 so obtain that additional information.

16 Q. We have heard a little bit about how that process
17 worked. But I am simply wondering whether it might have
18 assisted you in updating the SIO as to the nature of the
19 family's concerns, which you had assured the family were
20 going to be investigated by the PIRC, if you had made
21 a note of what Collette's concerns were?

22 A. I think from first contact with the family it was quite
23 clear what their frustrations were and I fed that back
24 in verbally to the incident and at briefings, it is
25 daily briefings we had throughout investigation, that

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1 was part of my role to highlight that. So it is getting
2 noted.

3 Me physically making a note of it? No, I didn't
4 because, as I said, I am almost immediately reiterating
5 the concerns and it was quite -- it was quite clear what
6 their concerns were, so was it fed back into
7 investigation? Yes, it was, verbally. Was it recorded?
8 Yes, it was. Did I note it down in my FLO log at that
9 time? No, I didn't. It may well have been beneficial
10 to do that but the information was fed back into the SIO
11 and the investigation team as a whole.

12 Q. What was done to investigate the concerns?

13 A. Again, going back to the statements, going back to see
14 the family to get these statements as early as possible.

15 Q. Returning to the meeting on 4th, I wonder if we could
16 bring up the FLO log again, please. I think it was
17 page 20 of the pdf. If we can scroll to the bottom of
18 that first page, please. Stop there thank you:

19 "Eventually managed to speak to Ade at the front
20 door and placate him and explain our role. He
21 reiterated Aamer Anwar would be the contact for the
22 family."

23 Now, previously in the log entries that we looked at
24 on 8 February, Aamer Anwar was deemed to be acting on
25 behalf of the family and here he is the contact for the

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1 family. Had something changed or is it just saying the
2 same thing in different words?

3 A. No, it was made quite clear -- well, I made contact with
4 Ade, he was obviously consulting with Mr Anwar, which
5 was fully respected, and that is what Ade said, that
6 Mr Anwar would be the contact for the family,
7 effectively the single point of contact, and that was
8 reiterated several times throughout the investigation.

9 Q. You also say here:

10 "Eventually managed to speak to Ade at the front
11 door and placate him and explain our role."

12 And you had mentioned earlier in this entry that
13 there was a large contingent of the family there and
14 there was hostility and frustration. I am wondering
15 whether it might have occurred to you, perhaps for
16 cultural reasons, that families from Sierra Leone may
17 not draw the same distinction between immediate and
18 extended family as perhaps you or I might, and whether
19 you had made any attempts to speak with the wider
20 grouping of people who were present rather than simply
21 trying to take Ade aside and speaking to him at the
22 front door?

23 A. It wasn't a case of taking Ade aside. That was me
24 speaking to Ade as I was going back out the door. There
25 were -- as I said there was intense questions, quite

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1 understandably, lots of questions to be answered, lots
2 of questions being asked by -- well, the same questions
3 being asked by different people, and the same sort of
4 answer was that this is a part of our investigation, we
5 have to report it or investigate it, and report it to
6 the Crown Office.

7 So I was answering questions, as was John,
8 throughout our time there. As I say, when I spoke to
9 Ade that was us simply going to the door having spoken
10 to the family and, as I say, the personal ... issues
11 that they required for young ██████ and the return of the
12 house was clearly an issue that required urgent
13 attention. And that was me speaking to -- as I said,
14 speaking to him as we went back to the front door. It
15 wasn't a case of I took him aside. I addressed their
16 concerns and understood their concerns and it was
17 a priority for me to get back to speak to Billy Little,
18 who I knew by that time was at Kirkcaldy Police Office.

19 Q. So had you listened to the concerns that were being
20 expressed by wider group, the extended family and
21 friends?

22 A. It wasn't -- there was no -- under no circumstances was
23 I ignoring anybody, I did my best to answer as many
24 questions as I possibly could. And then, as I say, it
25 was quite clear that the retention of the house, the

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1 family home, was a major concern, so I wanted to resolve
2 that if -- well, as we did do, but I knew that was going
3 to take time and I had to push that on.

4 Q. At the time that you visited Kadi and Ade Johnson's
5 home, were you aware the family were a Muslim family?

6 A. Yes.

7 Q. I wonder if we can flip back to your Inquiry statement,
8 second statement. Paragraph 89, please:

9 "I have been asked if my learning at some point
10 relatively early on that Sheku Bayoh was Muslim impacted
11 my actions at all in the early stages of the
12 investigation. Not at that time. I think it was
13 actually Aamer Anwar who I had asked the question to
14 confirm about Sheku being Muslim, and I think as part of
15 that conversation he confirmed to me that he was not
16 a practising Muslim."

17 What would be the relevance to you of Sheku not
18 being a practising Muslim?

19 A. Simply a lifestyle question. I have liaised with many
20 families from many different religious backgrounds, and
21 I am not going to sit here and -- I make it quite clear
22 to all families I deal with, regarding their religious
23 background, I am no expert on all religions and I make
24 it quite clear that if I do inadvertently cause any
25 offence, I would ask that they highlight that to me

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1 because then I will learn from it. And over -- well,
2 30 years within the police and 11 years with the PIRC
3 and a family liaison officer for the vast majority of
4 that there is always a learning outcome speaking with
5 any -- no matter what their background is, you will
6 always learn something for moving on to the next job.

7 So, as I say, I am no expert on religion but I will
8 do my very best to respect anybody's religion and, as
9 I said, if I cause offence it is certainly not
10 intentional and I would ask any family member to educate
11 me, for want of a better word.

12 Q. I think you say much the same thing in paragraph 53 of
13 your statement, maybe we can look at that for
14 completeness. There is discussion there about
15 a briefing, and you go on to say:

16 "I explained to him I had many years of experience
17 of dealing with, or liaising with families from all
18 sorts of background, race, religion, gender. I knew
19 exactly what he was talking about because of the
20 circumstances, and I think I knew by that time that
21 Sheku was a Muslim and, it was a case of, is he a
22 practising Muslim. I was already assessing what sort of
23 information do I need to have in order to assist in
24 relation to that as far as liaising is concerned with
25 the family. Whilst he did highlight that, I had been

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1 thinking about that from the very moment I was appointed
2 as the FLO. In the past, I have had to go to a member
3 of the community and get advice from them. I am no
4 expert on religion, but I like to think that I have a
5 working knowledge of the information that I require for
6 such deployments. I do my very best to make it quite
7 clear that I am no expert, so if I do cause some sort of
8 offence, I expect them to highlight it to me so that
9 I can learn from that. To date I have never caused any
10 offence. I have had the experience to liaise with the
11 families in the appropriate manner. In very basic
12 terms, my policy has always been, speak to people in
13 a manner which I expect to be spoken to myself, and it
14 has stood me in good stead for liaising with families."

15 That is essentially what you said in your evidence
16 a moment or so ago. If we can perhaps keep this on the
17 screen for now. I would like to ask you a few
18 questions. What account did you take of possible
19 cultural or religious requirements when you went to meet
20 with the family?

21 A. Again, very much working on experience and knowledge of
22 past deployments, both as within the PIRC and within the
23 police. And if something was pointed out to me to
24 respect that religion then I would comply with it,
25 I have no issues in relation to that. It's trying to

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1 understand their beliefs, I have experience of
2 repatriating deceased to their home country and I have
3 got experience in relation to that as well, so I call on
4 all that experience on any deployment as to how I can
5 use that or do I need to go and seek advice from
6 a community leader, from anybody within that community,
7 irrespective who it is, to assist with supporting the
8 family and that is part of my role.

9 Q. When you went to the family home, did you take your
10 shoes off when you went in?

11 A. I didn't, no.

12 Q. Did you check whether the female family members would
13 feel comfortable with a male investigator coming into
14 the house?

15 A. I didn't, no. Certainly when I arrived at the door
16 I was invited in by Ade so there was nothing -- had that
17 been expressed to me that I had to respect that, then
18 that would not have been an issue. I have done it in
19 the past so why would I not do it now?

20 Q. You say in your statement here that your policy is to
21 speak to people in a manner in which you would expect to
22 be spoken to yourself. Is that maybe the same as
23 treating other people the way that you would expect to
24 be treated yourself?

25 A. It is treating with people with respect and respecting

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1 their religion, whatever their beliefs are. It is not
2 my beliefs, I am respecting their beliefs.

3 Q. Does your approach take account of cultural and
4 religious differences that perhaps don't apply to you?

5 A. Very much so, you have to keep an open mind. It is not
6 for me to dictate my beliefs to anybody, it is my job to
7 provide a support to the family irrespective of the
8 background, irrespective of their beliefs, their gender,
9 or whatever the circumstances are.

10 Q. By the time you visited the family at half past six on
11 the evening of the 4th, the post mortem had taken place?

12 A. Yes.

13 Q. And you explain in your statement that there was no
14 discussion about the post mortem at the meeting.

15 I wonder if we can look at paragraph 86:

16 "I have been asked if, at this meeting with the
17 family, John Clerkin or I discussed the post mortem with
18 the family and informed them it had taken place. No,
19 I do not remember having a discussion about the
20 post mortem because Aamer Anwar was the single point of
21 contact, so he had been told about it, albeit the
22 meeting was shortly after. We had about half an hour or
23 45 minutes after we spoke to Aamer about the post mortem
24 result. As he was the single point of contact, I would
25 have expected him to inform the family of the

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1 post mortem result."

2 I want to ask you some questions about that. We
3 looked at the entry when you gave your evidence on
4 8 February and you had called Aamer Anwar at 17.48 hours
5 to advise him of the outcome of the post mortem. So
6 that is less than 45 minutes before you met with the
7 family. We agreed on 8 February that this was a call
8 that was being made outwith business hours and you told
9 us too that he had his children with him.

10 A. Yes.

11 Q. Do you know where in Scotland Aamer Anwar lives and
12 works?

13 A. I knew where he worked at that time, I don't know where
14 he lives, no.

15 Q. Where did he work at that time?

16 A. Carlton Place in Glasgow.

17 Q. In Glasgow, okay, and of course the family were based in
18 Kirkcaldy?

19 A. Yes.

20 Q. Yes. In your experience as a FLO is there some
21 information that is better passed on face-to-face than
22 on the telephone?

23 A. Yes.

24 Q. Might the results of an autopsy fall into that category?

25 A. Yes, it probably would be. It depends if there is --

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1 the importance of knowing that knowledge can
2 sometimes -- sometimes it has to be delivered by phone.
3 Is it ideal? I would say probably not but that is
4 the whole point of a single point of contact, and
5 cascading that information. So has it happened in the
6 past? Yes, it has. Is it ideal? No, I wouldn't say it
7 is ideal.

8 Q. So all things being equal it is the sort of information
9 that it might be better to pass on face-to-face, if
10 possible?

11 A. If possible, yes.

12 Q. If it was the sort of information that had to be passed
13 on by phone you might want some privacy. I think you
14 gave evidence that you stepped into the yard at
15 Kirkcaldy Police Station so you could make a private
16 call to Aamer Anwar, and it might be difficult to make
17 a private call if you are looking after children at the
18 same time and certainly a person who is sharing the
19 results of a post mortem examination over the telephone
20 wouldn't want to be interrupted by their children; would
21 that be fair?

22 A. That would be a decision for Mr Anwar but yes, I would
23 agree with that. Certainly I would be looking to find
24 some form of privacy, yes.

25 Q. When you spoke with Mr Anwar at 15.48 hours -- sorry,

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1 17.48 hours, did you ask him whether he would have the
2 opportunity to pass the information to the family ahead
3 of your visit at half past six?

4 A. I don't remember asking that specific question, no.

5 Q. Because if I recall well, and we looked at this last
6 time, before the call at 17.48 at around about half past
7 five in the afternoon you had made courtesy call to
8 Mr Anwar to let him know the family meeting was going to
9 happen at half past six?

10 A. Yes.

11 Q. Did it occur to you that he might not have that
12 opportunity before half past six?

13 A. No. I stand to be corrected, but did Mr Anwar not --
14 had I not told him the result of the post mortem prior
15 to that; was it not earlier in the day?

16 Q. Let's have a look at the log so we can be absolutely
17 sure about this. Can we look, please, at what is
18 stamped as page 12, I don't have the pdf number for it
19 but there are numbers in the top right-hand corner.
20 Thank you. So here is an entry at 15.45 hours on the
21 4th:

22 "Telephoned Ade Johnston to confirm I had received
23 contact details for Aamer Anwar.

24 "Ade requested home visit at 1830hrs. Agreed. No
25 issues."

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1 So at 15.45 hours that meeting was set up. If we go
2 on to the next entry, please. 17.29:

3 "Courtesy call to advise Aamer of home visit. No
4 issues."

5 So you made Mr Anwar aware just before half past
6 five that you were going to be visiting the family. Did
7 you tell him what time you would be visiting the family?

8 A. I think I did. I don't see any reason why I wouldn't do
9 because Ade had suggested that time so ...

10 Q. Okay. Then the next entry, we have looked at this
11 before, just to orientate ourselves this is the entry at
12 17.48:

13 "Advised Aamer Anwar of the results of the
14 post mortem."

15 So by the time you had the call with Mr Anwar about
16 the results of the post mortem, he knew that you were
17 going to be meeting with the family --

18 A. Yes.

19 Q. -- in about 45 minutes' time. We can take that down
20 from the screen just now. I am wondering whether it
21 occurred to you to check with Aamer Anwar, either during
22 your call at 17.48 or perhaps even when you arrived at
23 the Johnsons' house, before you got out of car, just to
24 pick up the phone and check with him whether he had been
25 able to convey that information to the family?

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1 A. No, we didn't at that time. It was -- because he was
2 the point of contact, it was important to relay the
3 information to him. He didn't come back with any issues
4 in relation to that, so -- but from a hindsight point of
5 view and looking for clarification, would it have been
6 beneficial to clarify that? It probably would have
7 been.

8 Q. You say that Aamer Anwar was the single point of
9 contact. Can you help me to understand if he is the
10 single of contact, why were you going to visit the
11 family at all? If all communications were routed
12 through him, how does that fit with you then going to
13 have a meeting with the family?

14 A. Again, a single point of contact is to, you know, manage
15 the information to and fro -- you know, between
16 the investigation and the family, so again from
17 experience families have nominated in the past to have
18 a solicitor as their single point of contact but the
19 family still want to speak to the family liaison
20 officer, so you do -- you can still have a single point
21 of contact but if any member of the family had phoned me
22 about any issues at all throughout the whole
23 investigation I simply wouldn't say: you need to go and
24 speak to Mr Anwar. If I could answer their question
25 there and then I would because which is one of the sort

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1 of basic parameters you set out from the very outset: if
2 I can answer the question, I will answer the question.
3 However, there will always be circumstances where
4 I can't answer it in order to -- for the sake of
5 discussion or to protect integrity of the investigation.

6 So yes, Mr Anwar was identified as being the single
7 point of contact, and that was the case throughout the
8 whole investigation, but I am a family liaison officer,
9 and I have been there where families have wanted nothing
10 to do with the family liaison, you introduce yourself:
11 come back and tell me when the investigation is
12 complete, and then thereafter there follows days and
13 days of telephone calls and communication.

14 It's not for me -- it's not -- I am there as
15 a support role, I'm an investigator first and foremost,
16 if any member of the family had phoned me, if I could
17 answer the question to relieve their frustration or
18 their concerns, I would answer that question.
19 Irrespective of their solicitor was the single point of
20 contact. It is a title and it is a conduit of providing
21 information between two parties. And it is important
22 that that single point of contact cascades the
23 information to the family and vice versa for me to do it
24 verbally or by written back into the investigation.

25 Q. So the single point of contact is a conduit but that

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- 1 wouldn't prevent you having direct contact with the
2 family, particularly where that contact has been
3 requested by the family, as it was here?
- 4 A. Again, contact through a solicitor is, I would suggest,
5 an indirect form of communication. You will never beat
6 direct communication with a family, and as I say
7 families have made it quite clear the solicitor will
8 deal with it and then from experience -- not only my
9 experience but speaking to people who I know have been
10 involved with the Hillsborough Inquiry have experienced
11 the exact same thing, families want to speak to the
12 family liaison officer but solicitors have said no, and
13 vice versa, solicitors have been contacted and they
14 say: well, speak to the family. So it's a changing
15 situation all the time, daily, hourly. And it's not for
16 me to say: well, I'm not speaking to you because it is
17 through your solicitor. That would be -- that's just
18 not appropriate.
- 19 Q. I wasn't suggesting you shouldn't have had the meeting,
20 I was just keen to understand why --
- 21 A. Yes, it's a -- it's as a support. You are an
22 investigator first and foremost, I have already said.
23 But you are there as a support role. I am not
24 a counsellor, I don't have any experience in that
25 whatsoever, but I do have contacts, and any FLO --

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1 experienced FLO will have are contacts to assist the
2 family in these situations and it is about networking
3 with your colleagues and these people who can help the
4 family.

5 Q. At the meeting with the family did they ask you any
6 questions about the post mortem results?

7 A. No.

8 Q. No. Did that not strike you as surprising if they had
9 been told the results of the post mortem in the previous
10 half hour or 45 minutes, that they wouldn't have any
11 questions for you?

12 A. I don't know if I would say it was surprising. It
13 was -- the concern again was about the house and the
14 different versions of events that the families had been
15 given by Police Scotland. So looking back on it now,
16 maybe it was -- maybe I would have expected some
17 questions about it but there was no questions about it.

18 Q. I just wondered if the lack of questions caused you to
19 reflect on whether they knew about the post mortem
20 results?

21 A. Well, now that you mention it ... you should never
22 assume that information has been passed and it is always
23 a clarification and as we have already discussed could
24 I have clarified with Mr Anwar that he will pass on that
25 information to the family? Yes, I probably could have

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1 done. But my experience is that having laid -- you
2 know, discussed the parameters of -- and you will pass
3 on that information yes, I think it -- unless I had
4 concerns about that information not being passed on
5 I would ask on a regular basis: have you passed on that
6 information to the family? Irrespective of whether it's
7 the solicitor or somebody within the family itself.

8 Q. You have made it clear that you had an expectation that
9 Mr Anwar would pass that information on but I think you
10 have also accepted that there wasn't any discussion with
11 him around --

12 A. Yes.

13 Q. -- whether he would have that opportunity before half
14 past six in the afternoon. Can I read to you an extract
15 from the evidence that Billy Little gave on 9 February:

16 "Question: Am I correct in understanding your
17 expectation was that the family would be told about
18 this?"

19 That is the post mortem results:

20 "Answer: Yes, absolutely.

21 "Question: By Mr Lewis?

22 "Answer: My expectation was the family would be told
23 by the family solicitor.

24 "Question: By the solicitor, and perhaps did you
25 expect Mr Lewis would speak to them when he visited

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1 them?

2 "Answer: Yes, absolutely. Because he was visiting
3 them and he did visit them.

4 "Question: We have heard this was a face-to-face
5 visit?

6 "Answer: Yes.

7 "Question: So you would have expected two sources of
8 information, two people providing information to the
9 family?

10 "Answer: Yes."

11 So clearly Mr Little anticipated that because you
12 were going to meet with the family face-to-face then
13 notwithstanding the fact that you had shared the
14 post mortem results with Mr Anwar you would discuss the
15 post mortem results with the family. I just wanted to
16 invite your comment on his evidence.

17 A. I understand what he is saying but again if you have
18 multiple points of contact within any family that can
19 cause more frustration, so I have identified and the
20 family have identified Mr Anwar as being that point of
21 contact and as we have discussed could I have clarified
22 to make sure he was going to do it? Yes, I probably
23 could have done. And that would have clarified -- and
24 I would have expected him very much so to be that point
25 of contact or provide that information. If I was then

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1 asked questions by the family in relation to that then
2 I would have answered it, and there were no questions
3 but again had there been questions I would have answered
4 that to the best of my ability.

5 Q. Can we go back to the family liaison policy, please, and
6 to page 26 of the pdf. Scroll down to the section --
7 that's perfect, thank you:

8 "Retention of organs and release of the body.

9 "At the conclusion of the post mortem, the FLO
10 should establish which tissues and/or organs, or other
11 samples have been retained for further pathological
12 examination and the reasons for their retention. FLOs
13 should be prepared to discuss these issues with the
14 family following prior discussion on such matters with
15 the SI."

16 I wanted to ask, prior to your meeting with the
17 family at half past six on the 4th what steps did you
18 take to step which organs or tissues had been retained?

19 A. I hadn't at that time, it was information that had been
20 provided to me by Billy, I think. It was "Unascertained
21 pending toxicology". The actual -- what had been
22 retained and what had been taken, I hadn't clarified at
23 that time.

24 Q. Why didn't you clarify that with Billy Little?

25 A. I can't remember, to be honest. At that time. It's --

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1 the samples that were taken, I can't remember if it was
2 discussed at the time. But in relation to that it's not
3 a case -- it wouldn't a case of just ignoring it, it
4 would be something that would be established later on,
5 and for further discussion, as we did have with family
6 meetings with Mr Anwar.

7 Q. But the autopsy had taken place by this point in time so
8 any samples that were going to be taken or any organs
9 going to be retained would have been taken or retained
10 by this point in time?

11 A. Yes.

12 Q. And you were about to go off and have a meeting with the
13 family at half past six. In the event no questions were
14 raised by the family, and nor did you raise the subject
15 of the post mortem but you must have anticipated the
16 possibility of that topic coming up?

17 A. Yes, but I think you need to understand you are managing
18 the information to the family. Would I go into the
19 great detail of everything that had happened up to then?
20 It would be something that I would assess in every
21 situation, so you are controlling or managing how that
22 information is being delivered to the family. I would
23 rather sit down at a later date and discuss that with
24 the family, which I think we did in due course with
25 Mr Anwar.

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1 So it's establishing -- that meeting on that day was
2 first contact, it was an introduction, I have been there
3 before with staff or with colleagues, both in the police
4 and within the PIRC, and the whole judicial process --
5 somebody has tried explain the whole judicial process to
6 the family. That is not the appropriate time. That is
7 information overload, and you can see them glazing over
8 as to: what are you saying to me? So it's managing that
9 information to the family at a specific time.

10 Have I ignored that? No, I haven't ignored it.
11 It's a case of: here I am, my name is Alistair Lewis,
12 here's my contact details, this is what we -- I hear
13 your frustration, I understand your hostility, the
14 emotions et cetera. It's my job to get back and get
15 that moving forward and then have a situation where you
16 can sit down with the family and discuss and manage that
17 information in an appropriate manner.

18 Q. So this is the first contact with the family?

19 A. Yes.

20 Q. But this first contact is taking place hours after the
21 conclusion of the post mortem?

22 A. Yes.

23 Q. And so far as you were concerned you had provided the
24 post mortem results to the family's single point of
25 contact, their solicitor?

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1 A. Yes.

2 Q. You must have anticipated that that information would
3 have been provided to the family, shared with the
4 family, cascaded as you put it, in advance of your
5 meeting with the family at half past six and you must
6 have anticipated that questions may have been asked?

7 A. Yes.

8 Q. The policy -- the family liaison policy does make clear
9 that it's the role of the FLO to establish which tissues
10 or organs have been retained and to be prepared to
11 discuss these issues with the family. I am wondering
12 where you would have found yourself if the family had
13 asked you questions around the post mortem and had asked
14 you whether any organs had been retained?

15 A. Yes, there would have been -- you meet the family, you
16 don't have all the answers all the time. And yes,
17 I could have -- as you say, I could have -- looking
18 back, I could have got more information in relation to
19 that. Would it have been the appropriate time to
20 discuss that at that time, with emotions running high?
21 I am not convinced. But we will never know because it
22 was never discussed. Have I ignored it? No, I wouldn't
23 have ignored it. I would have got more information and
24 I'm sure over the course, as I said, we did get more
25 information and that information was passed to the

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1 family.

2 Q. It might be said that it is a matter for the family, you
3 go at their pace, if they are asking for the information
4 then the information should be provided when they ask
5 for it and not at a time that you deem to be more in
6 their interests?

7 A. I am not deeming any information to be in my interest,
8 it would be a case of -- straightforward I don't have
9 that information but I will go and get it, I will go and
10 clarify that. And that would have been probably just
11 a case of going back down to speak to Billy and getting
12 that information. So could I have got it on the night,
13 had the questions been asked? Yes, could I have gone
14 back up and delivered that night? Yes. And you are --
15 it wouldn't be case of: I hear your questions but I am
16 going to ignore it. I hear your questions and I am
17 going to go and get the answer for it.

18 Q. I am just wondering whether with hindsight it might be
19 helpful if you had armed yourself with that information
20 in advance of the meeting, although I acknowledge that
21 the issue didn't arise at the meeting in any event.

22 A. Again, you can get as much detail as you want. How do
23 you manage that information? You have to manage the
24 information overload. Throughout your -- any deployment
25 you will have families who will say I didn't tell you

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1 that. Well, yes, I did, and you can take them back and
2 remind them when it happened.

3 So it's not for one of the -- well, one of the
4 pieces of advice we give to any family is to try and
5 have a notepad and a pen invariably beside the bed --
6 because will you wake up in the middle of the night with
7 a question and you'll forget about it by the morning --
8 to write that question down and then ask it of us the
9 next day or whenever we next meet.

10 So it's always about managing the expectations of
11 the family and managing the information and not to
12 overload the family with information. Not to ignore it,
13 but to manage it and get that information to them so
14 that they understand exactly where we are. It is very
15 easy to sit and people like ourselves who are involved
16 in the judicial programme or the judicial system and
17 have that knowledge but these -- the vast majority of
18 families you deal with have no expectation -- no
19 understanding of how that system works. So to sit down
20 on day one and say: this is how it is going to work and
21 this is how long it is going to take, it just doesn't
22 work, so you have to manage that delivery of
23 information.

24 Q. Your evidence is that you didn't raise the issue of the
25 findings at post mortem with the family because you had

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1 shared the findings with Aamer Anwar and you had the
2 expectation that he, as single point of contact, would
3 cascade that information. You didn't know as at the
4 evening of the 4th what tissues or organs had been
5 retained. So can we take it that you didn't provide
6 that information to Aamer Anwar either?

7 A. No, I gave him the basic information I had been provided
8 by Billy.

9 Q. Do you know now what tissue samples were retained?

10 A. Not off the top of my head, no. It will be recorded
11 somewhere.

12 Q. Do you know now whether any organs were retained?

13 A. I can't remember.

14 Q. If I were to tell you that the post mortem report
15 records that the brain and cervical spinal cord were
16 retained in their entirety, does that come as news to
17 you?

18 A. It does, yes.

19 Q. If I were to tell you that the post mortem report
20 records that a number of tissue samples were retained,
21 including heart, lung, liver and kidneys, does that come
22 as a surprise to you?

23 A. It does, yes.

24 Q. Is that the sort of information that if discovered by
25 a family days or weeks or months down the line has the

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1 potential to cause upset?

2 A. Oh, very much so, yes.

3 Q. Again, I wonder then why, in accordance with what is
4 written here in the policy, that it's for the FLO to
5 establish which tissues or organs have been retained,
6 why you appear not to have taken any steps to ingather
7 that information?

8 A. I can't -- I don't actually remember being told anything
9 like that from the post mortem results. Now, I can't
10 remember ... (Pause). I can't remember or understand
11 why. I was either told that information or provided
12 with that information or what document that would be on
13 for me to read, I can't remember where that would be.
14 I don't remember ... (Pause). No, I can't remember why.
15 Or ... I don't understand why I would not know that
16 information. I would expect that to be in a -- some
17 sort of briefing, you know, for everybody to know within
18 the investigation, those circumstances.

19 Q. There were certainly PIRC investigators present at the
20 post mortem.

21 A. Yes.

22 Q. And then there was an interim post mortem report that
23 confirmed what organs and samples had been taken. But
24 the way the policy reads is that it appears to put the
25 onus on the FLO to establish which tissues or organs

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1 have been retained, and I am keen to understand and it
2 might assist the Chair to understand what steps, if any,
3 you took to establish what tissues or organs had been
4 retained?

5 A. I would have made steps to read the information. The
6 extent of what you are telling me, I don't remember
7 reading anything with that, if I have missed it then
8 I don't understand how I have missed it. I am surprised
9 I haven't been told, even from the point of view of
10 Billy being at the post mortem, that kind of information
11 sort of being provided even verbally. I can't remember
12 if that was done or not, so ...

13 Q. Looking back is there anything that you could have done
14 to establish what tissues or organs had been retained?

15 A. I could certainly have -- obviously there was
16 a post mortem report, so ... I don't remember not
17 reading it but I can't remember that extent of organs
18 and samples being retained. So -- but I can't explain
19 that.

20 Q. Looking back, could you perhaps have made a call to
21 Billy Little or one of the other investigators who had
22 been present at the post mortem?

23 A. I think for that detail I would be looking for that
24 information. I don't remember that information being
25 passed during meetings with the family at all. I don't

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1 remember that at all.

2 Q. But looking back is it possible that a phone call to
3 Billy Little, or perhaps a phone call to the pathologist
4 to ask what tissues and samples had been taken?

5 A. I certainly made a phone call to Billy, I could have got
6 more detail of that, even later on after the initial
7 contact with the family. Yes, there could have been
8 more information. I can't remember if we had that
9 discussion or not. I just -- it's ...

10 Q. Or a call to the pathologist?

11 A. I think that would be a kind of last resort for me,
12 I would expect to find that information within the --
13 the investigation side of things. I would do that if
14 I couldn't get the information and it was urgently
15 required. On this occasion no, I didn't, I didn't do
16 that.

17 Q. I wonder if we can return to the FLO log please, and
18 move on to the next entry. This is on page 23 of the
19 pdf. This is the entry that follows on from the meeting
20 with the family. 17.30 hours, 4 May:

21 "After discussion with Police Scotland decision was
22 made to release [Arran Crescent] back to Collette.

23 "3x knives seized for comparison to knife in
24 possession of Sheku. Prescribed drugs also seized to
25 assist with toxicology."

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1 Who was it who seized the knives and drugs, did you
2 play any part in that?

3 A. I don't know if that was ourselves or whether it was
4 Police Scotland did that. I can't remember. If I have
5 signed a production label, then yes it was myself that
6 did it. I don't -- I don't remember doing that.

7 Q. I don't have access to the production labels but that is
8 no doubt something that we can check. I wonder if we
9 can jump back to page 19 of the pdf. We looked at this
10 entry when you began your evidence on the 8th, it's
11 an entry that appears to be out of place. This is
12 an entry, a call to Aamer Anwar:

13 "... to advise that the house [at
14 Arran Crescent]~... to be returned to the family by
15 2200hrs."

16 This entry is dated 20.15 on the 4th, so it appears
17 to be out of sequence. It has been entered into the log
18 before the entry relating to the visit to the family but
19 it relates to a conversation that took place after the
20 meeting with the family.

21 Did you speak with Mr Anwar in person?

22 A. In relation to the house being returned?

23 Q. I am just keen to understand whether you actually spoke
24 with him or whether this was a voice message. It says
25 "phone call", does that mean you would have actually

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- 1 spoken to him?
- 2 A. I personally contacted Aamer Anwar, yes.
- 3 Q. Of course he knew that you were going to meet with the
- 4 family at half past six, we have already looked at the
- 5 entry in the log from just before half past five when
- 6 you told him you were going to have a meeting with the
- 7 family. Beyond telling him in this call that the house
- 8 was to be returned to the family, did you report back to
- 9 him on how the meeting with the family had gone?
- 10 A. Not at that time. I think it was -- because by that
- 11 time when the house was returned it was about
- 12 10 o'clock, 11 o'clock -- 10 o'clock at night, I think
- 13 it was.
- 14 Q. This call is at 20 -- sorry at quarter past eight in the
- 15 evening?
- 16 A. That would be a phone call to him to let him know we had
- 17 secured the return of the family -- the home address to
- 18 the family.
- 19 Q. Absolutely. But I am wondering whether you took the
- 20 opportunity, at the time of making that call, to give
- 21 him an update on how your meeting with the family had
- 22 gone?
- 23 A. I don't remember having that conversation, no.
- 24 Q. Did you tell him, for example, that you hadn't mentioned
- 25 the results of the post mortem to the family?

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1 A. No, I don't remember having that conversation.

2 Q. Did you ask him at that juncture whether he had shared
3 that information with the family?

4 A. No.

5 Q. Can we move on to what is page 24 of the pdf, please.
6 So sequentially this is the next entry, 22.00 hours on
7 4/5 and it says that:

8 "House [at Arran Crescent]~.., returned to
9 Ade Johnson. He videoed the house on his phone.
10 Advised re knives and prescribed drugs taken from house.
11 He seemed more calm and again confirmed Aamer Anwar will
12 be contact for the family. Clearly still upset and
13 frustrated."

14 Can I ask why the house was returned to Ade? It
15 wasn't his house.

16 A. I phoned him to let him now know the house was being
17 returned and it was Ade and ... I think his
18 brother-in-law turned up, myself and John were there.
19 I didn't have any issue. The issue was they wanted
20 personal belongings out the house so I was there to
21 provide that assistance, and we did have a discussion
22 about that and he decided that that would be dealt with
23 at a later date, so it was really handing the home back
24 to the family and Ade was the person who turned up in
25 relation to the family. I had no concerns about

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1 returning it to Ade.

2 Q. It may be that is entirely proper, I was just curious
3 because it was Collette Bell's house, not Ade Johnson's
4 house.

5 A. I appreciate that. Collette was at Ade's home address
6 the last time I spoke to her so the fact that she didn't
7 have access to their own -- her own home, I just
8 assumed -- well, Ade was a member of the family, it
9 would be a completely different situation if it was
10 a complete stranger who had turned up to take that, then
11 that would not have happened.

12 Q. You record that again it was confirmed that Aamer Anwar
13 would be the contact for the family. Ade was "Clearly
14 still upset and frustrated". I am wondering what you
15 did at this time to offer reassurance and ease the
16 frustrations?

17 A. Again, it was about the contact with the police and how
18 the -- just basically reiterating how we would be moving
19 forward with the investigation. Again, this is early
20 contact, the priority to me, as I said from the very
21 outset, was from the family, they wanted the house back
22 and there was obviously confusion as to who had control
23 of that house. I took this as a positive step forward
24 to securing that, albeit it's late at night, but it's
25 a positive step forward to assure the family that we

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1 were doing our best to move things forward.

2 Q. Let's carry on going through the log. That I think is
3 the last entry for 4 May and it's timed 10 pm. What
4 time did you go off duty?

5 A. I think it would be early hours of the morning, I think.
6 It was after midnight, I think by the time we got back
7 down the road. I can't remember the exact time but it
8 was certainly a lot later than that. Obviously I had to
9 travel back down to Hamilton, so it would be, I don't
10 know, maybe after midnight.

11 Q. If we can go on to the next page, please, I think it is
12 25 of the pdf. We are now on to 5 May entry
13 09.47 hours:

14 "Text message from Aamer Anwar to call him
15 urgently."

16 If we scroll down we will see again that is written
17 up later at 17.10 hours. I think we can move through
18 these entries quite quickly, thank you. On the next
19 page an entry at 10.29:

20 "Return call re previous entry.

21 "Aamer Anwar asking why police officers involved in
22 the incident have not been suspended. Advised
23 responsibility of Police Scotland.

24 "Stated he will be phoning Lord Advocate and
25 Police Scotland to complain.

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1 "Hereafter had meeting with John Mitchell,
2 Irene Scullion, John McSporrان, Billy Little and
3 John Clerkin.

4 "Agreed a meeting to be arranged and to request same
5 via Amer Anwar.

6 So what was the purpose of this meeting you had with
7 John Mitchell, Irene Scullion, John McSporrان,
8 Billy Little and John Clerkin?

9 A. Just to ask -- bring them up to speed in relation to
10 what Mr Anwar was contacting me about, and my suggestion
11 was that we obviously need a family meeting with them
12 sooner rather than later, so it was just a very short
13 briefing, if you like, to bring them up to speed with
14 that phone call. That is all.

15 Q. When you say:

16 "Agreed a meeting be arranged and to request same
17 via Amer Anwar."

18 What was the purpose of arranging this meeting?

19 A. Again, with family liaison you want to meet the family
20 on a regular basis, you want -- I personally prefer
21 direct contact and communication with the family. This
22 particular situation and with the family's -- respecting
23 the family's wishes, it was an indirect form of
24 communication through Mr Anwar. That is the challenges
25 of being a family liaison officer and arranging that, so

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1 I brought them very quickly up to speed with what
2 Mr Anwar was saying and it would be -- we agreed to
3 arrange a meeting sooner rather than later, through
4 Mr Anwar.

5 Q. If we carry on to the next page, please. You will see
6 that entry was written up at 17.20. This is the next
7 entry 11.07 from the 5th:

8 "Text re email from Aamer Anwar."

9 Keep scrolling through. That entry was written up
10 at 17.20. Next entry 11.24:

11 "Phone call re family meeting. Agreed 1030hrs [on
12 the 6th] at Aamer Anwar's office Carlton Place,
13 Glasgow."

14 If we scroll to the bottom we see that was written
15 up at 17.25. So these were the arrangements for the
16 meeting with the family the following day?

17 A. Yes.

18 Q. Arrangements being made. Again, for completeness there
19 are three FLO logs, we are only going to go through the
20 first one every single page but for completeness I would
21 like to go through all of the entries, so if we can
22 scroll on to the next one, please. 11.32 on the 5th:

23 "Phone call to advise family PIRC investigators will
24 be working in the area."

25 What was the purpose of that call?

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1 A. Again, just purely to advise the family that, you know,
2 we've got to -- there was a large number of us, the
3 majority of investigators were up doing door-to-door and
4 working in the area, so a part of the role is managing
5 the information and with social media it is trying to
6 manage that as well. You know, what are all these
7 people up there doing? Why are they asking questions?
8 And it is to just let them know that we are up there
9 working in the area and moving the investigation
10 forward.

11 Q. That entry was written up at 17.25. This next entry is
12 a contact with Aamer Anwar dated 14.20 hours on the 5th.
13 Let's look at this one in its entirety:

14 "Phone call from Aamer. He has spoken with
15 Lord Advocate who has stated post mortem will be put on
16 hold. Reminded phone call and entry at page 14."

17 The entry at page 14, that is the call that you had
18 at 17.48 hours --

19 A. Yes.

20 Q. -- the previous evening, where you record having told
21 him the results of the post mortem examination; is that
22 right?

23 A. Yes.

24 Q. "Further reminded the family refused to do formal
25 identification and Crown has directed PM would go ahead

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1 [on 4/5].

2 "Stated he was with family and he was unaware of PM.
3 Reminded of entry at page 14."

4 That is the same entry. Let's just scroll down to
5 see when that was written up. That was written up at
6 17.30 hours. So let's look at the text of that entry
7 again because I have some questions to ask you about
8 this:

9 "Phone call from Aamer. He has spoken with
10 Lord Advocate who has stated post mortem will be put on
11 hold."

12 What did you think when he said that to you?

13 A. I was surprised at the ... that information.

14 Q. What was going through your mind?

15 A. Just, well I would assume that the Lord Advocate would
16 know through Dave Green and management within the Crown
17 Office that the post mortem had taken place.

18 Q. You say:

19 "Reminded him of phone call and entry at page 14."

20 Let's flick back to that very quickly. It's
21 actually page 18 of the pdf. At this point in time you
22 hadn't written up the entry on page 14, so when you say
23 reminded him of that entry at page 14, is that shorthand
24 for you reminding him about this conversation?

25 A. It's the conversation we had at that time on the 4th

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1 about the result of the post mortem.

2 Q. So let's look at this quickly, simply because we looked
3 at it back on 8 February but we haven't look at it
4 since. So at 17.48:

5 "Advised Aamer Anwar of result of PM - unascertained
6 death subject to toxicology and brain tissue exam.
7 Asked who the pathologist had been. Unaware at that
8 time.

9 "At the time of the call Aamer had his children with
10 him.

11 "Also asked if he could obtain GP details for the
12 PIRC to obtain medical records of Sheku for
13 pathologist."

14 When you say you reminded him of that phone call,
15 what did you say to him?

16 A. Just that -- reminding him of the phone call in relation
17 to the result of the post mortem.

18 Q. How did he react to that?

19 A. I can't remember how he reacted to it. I think that is
20 when he said the family was with him and they were
21 unaware.

22 Q. Can we go back to the entry we were looking at a moment
23 ago on page 30 of the pdf. He said:

24 "... he was with the family and he was unaware of
25 PM."

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- 1 And again, you reminded him of the conversation you
2 say took place the night before. Again, how did you
3 feel, what was going through your mind when Aamer told
4 you that he was with the family and he was unaware that
5 the post mortem had taken place?
- 6 A. That is why I reminded him of it. I couldn't understand
7 that he was saying that -- well, basically the
8 post mortem had gone ahead, and I had given him the
9 information in relation to the result of the
10 post mortem. So not being aware of it, I couldn't
11 understand that.
- 12 Q. How did he react to you saying that?
- 13 A. I don't -- I can't remember any particular reaction in
14 relation to that conversation other than stating he was
15 with the family and he was unaware of the post mortem.
16 So again, I reminded him of the entry, and informing him
17 of the result of the post mortem.
- 18 Q. The tone of this written entry is quite calm, was the
19 conversation a calm conversation?
- 20 A. I don't remember it ... I don't remember it being
21 anything other than a calm conversation.
- 22 Q. Could you hear anything going on in the background?
- 23 A. No, I don't recall anything like that in the background.
- 24 Q. So during the course of this conversation, you became
25 aware that Aamer's position was that he was unaware that

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1 the autopsy had taken place, and indeed he had spoken to
2 the Lord Advocate who was going to have it pushed back.
3 When you realised that was his position, what were you
4 thinking; how did you feel?

5 A. Again, I can only go with what -- you know, the
6 post mortem -- Crown had instructed that the post mortem
7 was going ahead on the 4th, and I had told Mr Anwar the
8 result of the post mortem, so again, as you say, for the
9 Lord Advocate to come in and say it was being put on
10 hold, I couldn't understand that, and that -- how that
11 has happened within the Crown Office, I don't know.
12 That is something for the Crown office to answer.

13 Q. But did you appreciate that irrespective of how it had
14 come about there has been a fundamental breakdown in
15 communication here?

16 A. There would appear to have been, yes.

17 Q. What did you do about it?

18 A. Highlighted it to senior management within the
19 organisation.

20 Q. Who did you speak to?

21 A. Probably Billy Little initially.

22 Q. What did you tell him?

23 A. Just exactly what is written there. The Lord Advocate
24 was instructing that the post mortem would be put on
25 hold but it had already taken place.

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1 Q. What, if anything, did Billy do about that, to your
2 knowledge?

3 A. I don't know, I don't know if there was a conversation
4 with Crown or not in relation to that.

5 Q. Did it cross your mind this breakdown in communication
6 had the potential, rightly or wrongly to result in
7 a complaint?

8 A. Very much so. Yes.

9 Q. I wonder if we can bring up Mr Anwar's Rule 8 response,
10 again he had the opportunity comment on this entry and
11 his views were sought. Thank you, if we can scroll
12 down, (vii). Thank you.

13 To put this in context, Mr Lewis, Mr Anwar explains
14 in his response that he had an exchange with the
15 Lord Advocate on the 5th in the course of which he
16 requested that the post mortem be delayed, and he says
17 that the Lord Advocate acceded to that request. He then
18 goes on to say at (vii):

19 "The family were in my office that afternoon when
20 I spoke to Alistair Lewis advising him of my discussion
21 with the [Lord Advocate]. It was only at that stage
22 that I was told the PM had gone ahead, some members of
23 the family became visibly upset and angry.

24 Alistair Lewis was unable to provide a satisfactory
25 explanation as to why they had not awaited the family,

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1 he never once said that he had advised me of the PM the
2 previous day."

3 I would like to invite your comment on that but if
4 we can perhaps take it in parts. He says "some members
5 of the family became visibly upset and angry", I asked
6 you earlier, just a few moments ago, if you could tell
7 what was going on in the background and you said you
8 couldn't. Mr Anwar says that some of the family members
9 were upset and angry. Did you have any sense of that
10 during the call?

11 A. No.

12 Q. He also says you were unable to provide a satisfactory
13 explanation as to why they hadn't waited for the family,
14 do you recall being asked about that?

15 A. I don't recall being asked that specifically. Other
16 than what is in my FLO log as to the Crown had
17 instructed that the post mortem was going ahead, and
18 that, you know, I had told him the result of the
19 post mortem.

20 Q. Mr Anwar also says that you never once said that you had
21 advised him of the PM the previous day, so he denies you
22 referring back to the entry that we have looked at, at
23 page 14 of your log. Can I invite your comment on that?

24 A. That is Mr Anwar's opinion but I have got it logged
25 there that I did tell him the result of the post mortem

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1 and the Crown instruction was that the post mortem was
2 going ahead.

3 Q. That contact was at 14.20 hours. If we can perhaps
4 return briefly to the log. I think we were on page 30
5 of the log. If we can scroll to the bottom so we can
6 see when that entry was written up, that entry which
7 relates to a contact at 14.20 hours was written up at
8 17.30 hours. So far none of the entries that we have
9 looked at in the FLO log are contemporaneous. If my
10 maths is any good, this is the 19th entry in the log.
11 You have told us that no entries at all were written up
12 on the 4th yes?

13 A. I think so -- on 4th May? Yes.

14 Q. No entries were written up on the 4th and the very first
15 entry is dated 5 May and timed at 2 pm. Do you accept
16 that? I have got --

17 A. Yes.

18 Q. -- a note of you having said that on 8th February?

19 A. Yes.

20 Q. But if it assists we can go back and --

21 A. No, no.

22 Q. -- look at the timestamp on the entries.

23 So by the time you put pen to paper at 2 o'clock on
24 the afternoon of the 5th, you were holding in your
25 memory the information from the briefing when you were

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1 appointed as FLO, the FLO meeting with Little and
2 Clerkin at which the strategy was discussed, Harrower's
3 update to you on the family position about
4 identification, the detail of your meeting with Mitchell
5 and Parker, a message from Ade to the effect that
6 Aamer Anwar was acting for the family, confirmation from
7 Mr Anwar that that was the case, a telephone call from
8 Ade during which he requested a home visit, a courtesy
9 call from Aamer Anwar -- sorry to him, Mr Anwar, about
10 the home visit, the call to Mr Anwar at 17.48 regarding
11 the results of the post mortem, the detail of the
12 meeting with the family at half past six in the evening,
13 three calls about the return of the house at
14 Arran Crescent, a number of calls on the morning of
15 the 5th about setting up a meeting for the following
16 day; that is a lot of information to be holding in your
17 memory?

18 A. Yes, I agree with what you are saying, and having looked
19 back through my FLO log since giving evidence, I have
20 clearly had notes in relation to that. I don't -- we
21 had -- there is a facility on the IT system within
22 CLUE 2, as it was at the time, to have information --
23 you can create a FLO family contact. So I can't
24 remember if I put anything into that or if I had
25 an accumulation of notes elsewhere, I have since been

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1 back looking for that information, I can't recollect how
2 I recorded it or where it is. But I certainly --
3 I can't find it now, so I have either been doing it from
4 an IT point of view and that is me updating my FLO log
5 from my notes, where those notes are, I can't find them.

6 Q. So are you confident in your recollection that you were
7 keeping some sort of contemporaneous records?

8 A. Yes, I obviously was keeping notes, and it is not
9 uncommon to start -- when you have the sort of physical
10 FLO log, through a simple logistics point of view it is
11 not uncommon to run out of FLO logs from a stationery
12 point of view, so you don't just don't take notes.
13 Where I have recorded those notes, I don't know. I have
14 hunted high and low for them from an IT point of view
15 and I wasn't one for a daybook as such, but I have
16 clearly had the opportunity to sit down and write --
17 update my FLO log from those notes I had taken at the
18 time.

19 Q. If you were taking notes at the time, why didn't you
20 take those notes directly into the FLO log, is that not
21 the purpose --

22 A. That is -- you're taking that time to sit down and that
23 is why you have those entries there. That is the only
24 reason -- the only explanation I can give is I have sat
25 down and taken those notes and transferred those notes

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- 1 into my FLO log.
- 2 Q. Your evidence is that you did keep some form of record
3 at the time?
- 4 A. Yes, I must have done because as much as my memory was
5 better back then it is certainly not that good.
- 6 Q. You say you must have done, do you have a recollection
7 of keeping notes at the time?
- 8 A. I do have a recollection of keeping notes, I just don't
9 know where they are. I can't~...
- 10 Q. You say they could have been on the CLUE 2 system, they
11 could have been handwritten. Do you recall how you were
12 keeping a note at that time?
- 13 A. I think it was more likely I had handwritten notes
14 rather than accessing the IT system.
- 15 Q. Do you recall that clearly or are you making that
16 assumption?
- 17 A. That is -- it is the only explanation I can give because
18 there is no way I can remember all that information from
19 memory.
- 20 Q. So should we understand that on the basis that you
21 accept that this was a lot of information to be holding
22 in your memory, your evidence today is that wasn't
23 really possible and you must have taken a record at the
24 time?
- 25 A. I must have had a record of some sort, yes.

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1 Q. But you haven't been able to find it?

2 A. No.

3 Q. When did you look for it?

4 A. Prior -- well, after giving evidence here, I realised
5 that I must have had notes somewhere so I have looked
6 back and I can't find anything, both from an IT point of
7 view as my own work laptop and there is nothing there,
8 and ... I don't have those notes.

9 Q. So should we understand that you don't clearly recall
10 keeping a note at the time but think you must have done;
11 is that fair?

12 A. I must have done because I don't -- I wouldn't make it
13 up, I would transfer my notes from whatever notes I'd
14 been taking so~... but where they are, I don't know.

15 MS THOMSON: Sir, I wonder if that might be a convenient
16 point to break?

17 LORD BRACADALE: Very well. We will stop for 20 minutes.
18 (11.30 am)

19 (A short break)

20 (11.55 am)

21 LORD BRACADALE: Ms Thomson.

22 MS THOMSON: Thank you. Mr Lewis, shortly before the break
23 you said that you must have kept a note,
24 a contemporaneous note, of your dealings with the family
25 and with Mr Anwar on 4 and 5 May, and that had formed

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1 the basis of the entries in the FLO log.

2 Can I ask what is your normal practice, is it your
3 normal practice to keep a record somewhere other than
4 the FLO log and write it up at a later point in time?

5 A. I have done it in the past, where a FLO log has maybe
6 not been immediately available to me, and I did notice
7 the entries when I was giving my statement back
8 in October for the Inquiry, about the timings, and if
9 I have used some other form of written work, in the
10 past, I have -- I have stapled it inside the first page
11 of the FLO log, or I have created a document, and lodged
12 them. I am annoyed at myself that I can't --
13 I obviously can't remember where I have done it and I am
14 also annoyed at myself that I haven't made an entry in
15 the FLO log to say -- make reference to wherever that
16 information might be. As I say, since giving the
17 statement and having been here back at the beginning
18 of February, I just -- I cannot remember what I have
19 done with them. Or where they are.

20 Q. Was a FLO log available to you when you came on duty and
21 were appointed as a FLO on the morning of the 4th?

22 A. We have FLO logs within the stationery cupboard.
23 Whether or not it was actually there at the time,
24 I can't actually remember. But if I came in and there
25 wasn't one I would have started a log as such in

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1 relation to my contact, and that is why -- my only
2 explanation is that that is me transferring my notes
3 into my FLO log and, as I say, I am annoyed with myself
4 as to why I have not made a record in relation to doing
5 that. Because I have done it in the past, whether it be
6 a few entries or the number of entries I made on this
7 occasion. So where that is, I don't know.

8 Q. You had been to Hamilton before you made your way to
9 Kirkcaldy, you had been to the PIRC offices. Can
10 we assume that there is a stationery store there and you
11 would have had access to things like FLO logs?

12 A. Yes, if I was taking notes it's maybe -- as I have said
13 before, it is not uncommon due to the amount
14 of deployments to either run out and there is an order
15 coming in or whatever. But just because there are FLO
16 logs there, if there was a FLO log there I would have
17 used it almost immediately. Would I -- if there wasn't
18 a FLO log there, would I not use something else to
19 maintain my notes? Then, you know, I would, it's not
20 a case of I must put it into the FLO log immediately.

21 Q. Okay. If a FLO log had been available to you on the
22 morning of the 4th would there have been any reason to
23 make your contemporaneous notes anywhere other than in
24 the FLO log?

25 A. No, I would normally -- usually when I get a deployment

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1 I will take a FLO log with me and make my notes either
2 right there and then or as soon as -- maybe sitting out
3 in the car or sitting down and make sure it is readable
4 more than anything else.

5 Q. We know that by 2 o'clock on the 5th you had a log
6 because that is when you started writing it up?

7 A. Yes.

8 Q. So if a FLO log had not been available to you
9 immediately and you were making notes elsewhere, which
10 I think is what you are suggesting, where would you have
11 kept those notes?

12 A. It would -- an A4 pad, a notebook of some sort.

13 Q. Or a PIRC issue notebook?

14 A. No, no, I wouldn't use -- I probably wouldn't use my
15 notebook because -- well, it's a small notebook, I would
16 rather have A4 sheets that I could write the notes down
17 on.

18 Q. You surmise that is what you may have done on this
19 occasion?

20 A. I am annoyed at myself that I haven't recorded it
21 because I have done it in the past, whether it has been
22 a few entries or more than that, because of the
23 unavailability of a FLO log I have written it down and
24 I've either kept it inside the log or created a document
25 or a folder in -- you know, it has been part of the

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1 investigation in whatever -- as a production, whatever
2 it is, whatever that type of investigation is.

3 Q. If you did make these entries in an A4 pad, where is it
4 now?

5 A. I don't know.

6 Q. None of the conversations that you had with the family
7 or Aamer Anwar on the 4th were written up until after
8 lunchtime on the 5th. What is best practice when it
9 comes to writing up entries?

10 A. As soon as possible.

11 Q. I think the family liaison policy says that entries to
12 the log should be made timeously and accurately. Why do
13 you suppose the policy says that the entries should be
14 made timeously?

15 A. Because that is what you should do as much as possible,
16 timeously put them in. And that's -- as I say, I am
17 annoyed I haven't made some sort of entry in my log to
18 explain me updating the log.

19 Q. Now, you will appreciate that in relation to the call
20 that you had with Aamer Anwar at 17.48 on the 4th
21 advising him of the results of the post mortem
22 examination, you will appreciate that there is a dispute
23 around that call. You will appreciate too that that
24 entry was written up only after you had had
25 a conversation with Aamer Anwar the following afternoon

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1 when he was in his office with the family, and he had
2 told you: the Lord Advocate is going to have the
3 post mortem pushed back, I didn't know it had happened
4 the family didn't know it had happened. So both those
5 entries were written up only after that conversation
6 happened.

7 I am wondering whether, looking back now, you might
8 think that if you had made a note of your call to
9 Aamer Anwar at the time, that is at 17.48 hours on the
10 4th, if you had a contemporaneous record of it, there
11 might be less scope for anyone to call into question the
12 accuracy of your note.

13 A. I understand that. And as I said, that is why I am
14 annoyed at myself that I haven't recorded that I was
15 making those notes elsewhere and where those notes are.
16 But I am not putting anything into the log that
17 I haven't written down somewhere else, so it is
18 accurate.

19 Q. You say now you are not putting anything into the log
20 that you haven't written down somewhere else, but you
21 are unable to produce the notes that you wrote down
22 somewhere else, and I think you will accept too that you
23 didn't mention those notes to anyone before today?

24 A. Yes, I understand that.

25 Q. Because you didn't mention them when you gave evidence

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- 1 on 8 February?
- 2 A. No I didn't, no.
- 3 Q. And you didn't mention them when you gave a statement to
- 4 a member of the Inquiry team?
- 5 A. Yes ... no, I didn't mention it. I would say it was
- 6 an observation of myself when I looked at it and it was
- 7 more sort of after giving that statement that I looked
- 8 at it and I couldn't understand where I had left those
- 9 notes, so ... again, as I say, I am annoyed I don't have
- 10 anything in the log to explain why because I have done
- 11 it in the past so why have I not done it on this
- 12 occasion.
- 13 Q. Do you accept that if you did have something in the log,
- 14 a contemporaneous note, a sheet from your A4 pad folded
- 15 over and stapled in, then there would be less scope for
- 16 anyone to suggest now that you might have made
- 17 a mistake?
- 18 A. Oh, very much, so, yes.
- 19 Q. Particularly when it comes to recounting the
- 20 conversation you had with Mr Anwar at 17.48 hours on the
- 21 4th?
- 22 A. Yes.
- 23 Q. I wonder if we can return to the FLO log and move on to
- 24 the next entry, which is at page 31 of the pdf.
- 25 Thank you. This is an entry in relation to a contact

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1 with Aamer Anwar at 15.15 hours on the 5th, and if we
2 can perhaps read it in full:

3 "Family now wish to view the body. Is it viewable?
4 Will be instructing their own pathologist. States
5 Lord Advocate is astonished PM went ahead. Aamer states
6 mother of Sheku had told Police Scotland she wished to
7 view the body before the PM. At that time she was
8 travelling up from England. 15.20 hours DSI Little
9 advised of above."

10 If we scroll to the bottom of that entry, please, it
11 was completed at 17.40 hours on the 5th.

12 So you have already given your evidence as to your
13 understanding of the family's position in relation to
14 identification of the body prior to the post mortem.
15 But here this entry reads that the family now wish to
16 view the body. Can you help me to understand, does
17 viewing a body serve a different purpose from the formal
18 identification?

19 A. It is not uncommon for families to do the formal
20 identification or somebody -- a member that is close to
21 the family do a formal identification, and in these
22 circumstances it is not uncommon for families who --
23 family members who have been travelling from some
24 distance away will ask to view the body themselves as
25 a last goodbye. That sort of situation. So it's not

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1 uncommon to provide that facility. It means us liaising
2 with the mortuary and the pathologist or mortuary staff
3 to make sure it is a possibility and facilitate that.

4 Q. So should we understand that viewing serves a different
5 purpose from formal identification, it's more about
6 saying goodbye?

7 A. Yes, formal identification has to be done a day or so
8 after, if -- irrespective of the circumstances. If
9 a family member wished to view their loved one then it
10 is a -- I have lost count of the amount of times I have
11 done it, and it just a case of us liaising with the
12 mortuary staff to provide the same facilities.

13 Q. And you say it is a way of saying goodbye?

14 A. Yes, for family members, yes, it is.

15 Q. In your experience as an experienced FLO, can it be
16 helpful for family members to have that opportunity to
17 say goodbye?

18 A. Oh, very much so, yes.

19 Q. Let's keep moving through the entries in the log. On
20 the next page there is an entry, 5 May at 15.20:

21 "Contact with pathologist and contact Les Brown~..."

22 That is at the Crown Office:

23 "... in relation to the family viewing."

24 Just keep scrolling through, these, please. That is
25 written up at 17.40. Next entry, 15.35:

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1 "Ascertaining the feasibility of a viewing at
2 0930hrs on the 6th."

3 Written up at 17.40. Next entry, 15.40 on the 5th:

4 "Kerryanne Shearer advises viewing is possible at
5 9.30 [on the 6th]."

6 And we have heard evidence from Dr Shearer already,
7 she was the lead pathologist who performed the autopsy?

8 A. Yes.

9 Q. Keep scrolling down, please. Entry written up at 17.45.

10 Next entry is 15.43:

11 "Voicemail message to Amer advising re family
12 viewing."

13 Written up at 17.50. Next 16.35:

14 "Aamer will speak to family re viewing."

15 So is this an example here of you using the
16 solicitor as a single point of contact and he is going
17 to go and speak with the family with the arrangements
18 for the viewing?

19 A. Yes.

20 Q. If we keep scrolling down, please. Written up 17.50,
21 next entry, 16.45 on the 5th:

22 "Aamer confirms family viewing at 9.30. Family will
23 attend themselves and will meet PIRC FLOs at Edinburgh
24 City Morgue then after meeting with family at Amer
25 Anwar's office at 1400hrs."

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1 Again, you having had that conversation with Aamer
2 and he having undertaken to speak with the family, he is
3 now reporting back that they are able to make the
4 viewing the following morning?

5 A. Yes.

6 Q. If we carry on scrolling please, written up at 17.55.
7 Next entry, so now it's 10.00 hours, 10 am on 6/5. We
8 are now into 6 May, let's look at this entry:

9 "Family viewing of Sheku at Edinburgh City Mortuary,
10 Cowgate, Edinburgh. Ade and Kadi did not view. 2x
11 sisters and brother-in-law did view. All very
12 emotional. Question was asked is the right eye of Sheku
13 missing, removed or was it injured. Informed the eye
14 had not been removed or injured. No other issues."

15 I have a number of questions for you around this
16 entry. Firstly, you record here who is present. Ade
17 and Kadi, although they didn't view and two sisters and
18 a brother-in-law who did view the body. There is no
19 mention here of Collette Bell, was she given the
20 opportunity to view the body?

21 A. Well, it was a family viewing so it was -- she was
22 never -- it was never -- I was never approached or asked
23 if she wanted to view the body of Sheku.

24 Q. Did you approach or ask her if she wanted to view the
25 body of Sheku?

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1 A. I didn't, no.

2 Q. Why not?

3 A. The viewing of the body was made, as I say, through
4 Aamer Anwar's arranging that. Again, had that been
5 aware to me that she wanted to view the body, then that
6 would have been facilitated. Rightly or wrongly,
7 I didn't know who was coming, I did to a certain extent
8 assume that Collette and possibly her mother were coming
9 down as well, but obviously they didn't.

10 Q. Can I take you to Collette Bell's statement, please,
11 SBPI00247. You will recall, perhaps, Mr Lewis, that on
12 8 February, when you began your evidence, I took you to
13 certain passages of Collette Bell's oral evidence in
14 which she discussed her desire to see Sheku after she
15 gave her statement to the police.

16 Can we go to paragraph 47, please:

17 "I am asked whether I got to see Sheku in the days
18 after we received the news the post-mortem had taken
19 place. No. Nobody was allowed to see him until a good
20 few weeks later, I'm sure, and we were told we could go
21 and view him, but at that point I didn't want to because
22 I wanted to see Shek for how he was, not after he's had
23 a post-mortem. To me, I didn't know what he was going
24 to look like. I didn't want to see him with stitches.
25 I didn't want to remember him like that. So, his family

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1 did go and see him, but I didn't."

2 So Collette here expresses an anxiety around seeing
3 Sheku for how he was and not after he has had
4 a post mortem.

5 "I didn't know what he was going to look like.
6 I didn't want to see him with stitches."

7 I am wondering, if you had had a conversation with
8 her and if she had expressed those concerns and
9 anxieties to you, if you might have been able to offer
10 any reassurance to her.

11 A. Yes, I could have done. It was -- I don't remember her
12 expressing anything like that during the conversations
13 with her. Again, the viewing we have been talking
14 about, I was told the family wanted to view, so if that
15 was one, two, three, four, X amount of members of the
16 family wished to turn up to the mortuary to view the
17 body of Sheku, then again, that would have been
18 facilitated.

19 But looking back, should I -- was it an assumption
20 that Collette turned up, should I have asked the
21 question? I possibly could have asked the question,
22 yeah.

23 Q. I mean, you say you don't recall her expressing these
24 concerns during any conversations that you had with her,
25 but prior to the family viewing on the morning of the

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1 6th, had you had any conversation with Collette about
2 the possibility of her viewing the body?

3 A. Not the viewing of the body, no, because it was -- the
4 conversation was about formal identification, which had
5 been completed.

6 Q. I will be corrected if I am wrong, but I think your
7 evidence on 8 February was that you hadn't had any
8 conversation with Collette about a formal
9 identification.

10 A. Me? No, not with Collette, no. The formal
11 identification had been discussed with Keith Harrower
12 and Ade at that time, I think it was.

13 Q. I just want to be clear, because you said a moment ago
14 this issue hadn't arisen and these concerns hadn't been
15 expressed by her in any conversation that you had had
16 with her, but should we understand that you didn't
17 in fact have any conversation with Collette Bell prior
18 to the morning of the 6th about her coming along to view
19 the body?

20 A. Not prior to the 6th, no.

21 Q. Okay.

22 I am wondering whether, looking back, it might be --
23 it might have been worth having that conversation, as
24 you say you might have been able to offer her some
25 reassurance around what would be involved in going along

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1 to a viewing.

2 A. Yes, without a doubt, I could have provided information
3 in relation to that, and part of the role of the FLO is
4 preparing the family for that viewing, in relation to
5 it. So it's important that, as FLOs, or any -- whether
6 it's a police officer or FLOs attending is that you do
7 arrive there early to assess the situation and prepare
8 the family for what may or not be there.

9 Q. Collette certainly seems to express a concern for seeing
10 Shek how he was and not how he looked after the
11 post mortem.

12 A. Yes.

13 Q. She said, "I didn't know what he was going to look
14 like". Is that a common concern families have?

15 A. I think it is, because, rightly or wrongly, the general
16 public view these sort of things on television and
17 television programmes, and it is -- it is a distressing
18 situation. It is very emotional. And some families
19 will deal with it very, very quickly; other families
20 want to be there for quite some time. So you have to
21 manage that.

22 Q. We have heard evidence of what is involved in the
23 post mortem examination, and it is an invasive
24 procedure.

25 A. It is, yes.

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1 Q. So in your experience as a FLO, do families tend to have
2 an anxiety as to how their loved one is going to look
3 after the post mortem?

4 A. Oh, yes.

5 Q. Collette expresses concerns as well about stitches,
6 "I didn't want to see him with stitches". Is that
7 the sort of concern that you have heard before too?

8 A. Oh, many times, yes.

9 Q. So if these concerns had one way or another come to your
10 door before the 6th, what might you have been able to
11 say or do to reassure Collette, put her mind at rest,
12 and perhaps encourage her to take the opportunity to say
13 goodbye, if she felt that was helpful for her?

14 A. I could have provided her with as much information as
15 she wanted, and have been there before, whereby -- you
16 know, if families don't want to travel, I take them
17 there. I give them the time to do that. It's -- what
18 the family want in relation to viewings, that is always
19 doable a certain extent, the logistics of arranging that
20 and making sure it's an appropriate situation, and
21 making sure that -- minimising or trying to minimise as
22 much of the emotional distress for any family member.

23 Q. If we leave the logistics to one side -- because she
24 doesn't seem to express concerns around the logistics --

25 A. No.

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1 Q. -- it is more about Sheku Bayoh's physical appearance --
2 might you have been able to prepare her for what to
3 expect in terms of how he looked?

4 A. Yes, very much.

5 Q. And might you have been able to offer information one
6 way or the other as to whether there might be stitches?

7 A. Yes, yes.

8 Q. Okay.

9 I wonder if we can move to the family liaison policy
10 again, please, at page 25. The third paragraph from the
11 top reads:

12 "It is advisable that the FLO view the body at
13 an early stage and this should be repeated before
14 viewing by any family member. The FLO will thereafter
15 be in a position to advise and prepare the family
16 members for the viewing."

17 Did you view Sheku Bayoh's body in advance of
18 the family viewing?

19 A. Yes.

20 Q. You did.

21 If we read down a little, the next paragraph goes on
22 to say:

23 "The information established and sensitively given
24 should include the condition of the body, including ..."

25 If we read on:

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1 "... a detailed description of the nature and extent
2 of any injuries."

3 I am wondering what information you shared with
4 those family members who attended the viewing in advance
5 of their viewing as to the nature and extent of the
6 injuries that Mr Bayoh had sustained?

7 A. One of the things that came out, I think it was prior to
8 the viewing, was the family had concerns about an eye
9 injury, I think it was, and having viewed the body,
10 I was -- I wasn't taken aback, but I didn't understand
11 where that information had come from. So, as a matter
12 of recourse, I went back to -- I was confident I hadn't
13 missed such an injury, because had that injury been
14 there, then I would have been speaking to the mortuary
15 staff to say we need to cover that side of Sheku's face
16 up to protect the family from that. If they wanted to
17 see it, again, I would prepare them for that. But that
18 was their concern, about an eye injury. And my concern
19 was how -- well, how have I not seen that?

20 So I went back to confirm what I already knew, and
21 then I said there was no eye injury. I think they
22 thought maybe he had lost his eye, but that was not the
23 case.

24 Q. Okay. Leaving aside the injury with the eye, what
25 information did you share with the family about what to

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1 expect in terms of his physical appearance?

2 A. I think that he was lying at peace and appeared to be
3 asleep, was the best way of describing it.

4 Q. Okay.

5 If we can look back at the policy, and it's the next
6 bullet point on the screen:

7 "A detailed description of the layout of the parts
8 of the mortuary that the family members will go into and
9 the facilities they contain. FLOs should bear in mind
10 that when people pay their last respects, they often
11 want to touch or kiss the body, need to perform
12 particular cultural rites or to view the body again
13 later. Guidance should be sought about whether this is
14 possible or appropriate."

15 I want to ask some questions about this particular
16 requirement in the policy document.

17 What information did you share with the family
18 members who came to the viewing about the layout and the
19 facilities at the mortuary?

20 A. It would be through -- I think at Edinburgh it's through
21 a glass screen. There is a room set aside for viewing
22 that is through, as I say, a glass screen, for the
23 viewing of the body.

24 Q. Did you share that information with them in advance?

25 A. I don't see any reason why I wouldn't share that,

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1 because it is the layout -- there was a family room, for
2 want of a better word, when they first arrive, and that
3 is where staff guide families to, and then we came
4 through, introduced ourselves, and explained where we
5 were going to within the mortuary and where it was, and
6 that he was lying at rest.

7 Q. So if any explanation was offered about viewing in the
8 way that you have described, that explanation was given
9 at the mortuary and not before?

10 A. Within the family room at the mortuary, yes.

11 Q. What steps did you take in advance of the viewing to
12 ascertain whether the family might want to touch or kiss
13 Sheku's body?

14 A. I didn't -- I don't remember making any specific -- or
15 asking any specific questions about that, but I don't
16 remember there being any issues of them not being able
17 to do that.

18 Q. What steps did you take in advance of the viewing to
19 ascertain whether the family wanted to observe any
20 particular cultural or religious practices?

21 A. I didn't take any specific steps towards that but,
22 again, anything like that could easily have been
23 facilitated if the family -- at the family's request.

24 Q. What steps did you take in advance of the viewing to
25 ascertain whether there was a need for the viewing to be

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- 1 behind a glass screen?
- 2 A. Not for a need for it, it's the facilities that are
- 3 there, so that is where -- the only other option,
- 4 I think, at that mortuary would be in the actual
- 5 mortuary itself, which is not appropriate.
- 6 Q. So the viewing room is not in the mortuary suite itself?
- 7 A. No, no, you have the mortuary suite, then you have
- 8 a separate entrance. Again, this is -- if you are not
- 9 familiar with the mortuary layout, you arrive so you can
- 10 ascertain how you are going to get the family in and out
- 11 of the mortuary. There is a family entrance. So you
- 12 facilitate that, and they're, as I say, guided to
- 13 a family room.
- 14 Q. So there is a family room with a glass screen into
- 15 a viewing room, if we might call it that?
- 16 A. No.
- 17 Q. No?
- 18 A. From recollection, I think as you walk in the door, the
- 19 family room is off to the left, in Edinburgh.
- 20 Q. Mm-hmm.
- 21 A. There is a short corridor or hallway to a door which
- 22 takes you into the viewing room, and then you close the
- 23 door, and then the curtains are pulled back by mortuary
- 24 staff, and through that glass, that glass window, is the
- 25 viewing room.

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1 Q. And the viewing room -- I just want to be clear on
2 this -- is not part of the mortuary suite; it is
3 separate from the mortuary suite?

4 A. Yeah, it's away from the mortuary, yeah.

5 Q. It's away from the mortuary suite. All right.

6 So there is a viewing room, there is a glass screen
7 with curtains, and the family view the body from the
8 other side of that glass screen?

9 A. Yes.

10 Q. Okay.

11 Let's just look again at what the policy says:

12 "A detailed description of the layout of the parts
13 of the mortuary that the family members will go into and
14 the facilities they contain. FLOs should bear in mind
15 that when people pay their last respects, they often
16 want to touch or kiss the body, need to perform
17 particular cultural rites or view the body again later.
18 Guidance should be sought about whether this is possible
19 or appropriate."

20 I am wondering what guidance you sought as to
21 whether it would be possible for the family to view
22 Sheku Bayoh not from behind the screen, but from the
23 other side of that glass screen, into the viewing room?
24 What guidance did you take as to whether that would be
25 possible?

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1 A. I didn't take any guidance at that time but, had the
2 family wished to do that, that would have been a simple
3 phone call to facilitate that. I am confident that
4 I could have made that decision at the time because
5 I saw no reason why it couldn't happen. So -- but
6 I certainly would have made the phone call to confirm it
7 could be done, and that just might have been a simple
8 case of stepping back outside to the family room and
9 facilitating that.

10 So, again, that -- had it been asked, I am confident
11 I could have facilitated that.

12 Q. So if the family had asked if they could approach
13 Sheku's body to touch him or kiss him or perform
14 a religious or cultural rite, you're confident that
15 request could have been acceded to?

16 A. Yeah, at the very -- at the most, it would have been
17 a phone call to confirm whether or not that was
18 possible.

19 Q. Okay.

20 Now, a few moments ago in your evidence, I asked you
21 what steps you took in advance of the viewing to
22 ascertain whether the family might want to touch or kiss
23 Sheku or perform a religious or cultural cite, and you
24 said you didn't ask.

25 A. I didn't ask the family?

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1 Q. Mm-hmm.

2 A. No, I didn't -- no, I don't remember making that
3 question.

4 Q. I would like to take you to Kadi's evidence, and we will
5 begin with her Inquiry statement, SBPI00236, at
6 paragraph 22:

7 "I am asked whether as family we were able to see
8 Sheku after the post mortem. Yes, after that Aamer did
9 arrange for us to go and view the body. It was
10 somewhere in Edinburgh we went to see him, but it was
11 only his face, we saw through a glass. That's all we
12 saw. It was all confined. It was just his face.
13 Nothing else, everywhere else was fully covered. We
14 didn't touch him, Nothing at all. Somebody took us into
15 the room where he was, and then the person went out and
16 left us there. We were shocked to see that there was a
17 glass partition and that we cannot touch him or
18 anything, but that's how it was. They just left us
19 there, and they went away, and after some time we came
20 out of the room."

21 I am now going to read you a chapter from her oral
22 evidence before I ask for your comment she was asked:

23 "Question: You mention in your statement that he was
24 behind glass? ... Was that explained to you ... before
25 you went, that he would be behind glass?"

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1 "Answer: No.

2 "Question: And you have mentioned earlier about
3 wanting to touch Sheku.

4 "Answer: Mm-hm.

5 "Question: As I understand it, that wasn't
6 permitted?

7 "Answer: Yes.

8 "Question: Had that been explained to you ... that
9 he would be behind glass and you wouldn't be able to
10 touch him?

11 "Answer: I think it would have prepared us mentally
12 to know what to expect when we walked in. But when we
13 walked in, we just saw glass and they opened a curtain
14 like -- they opened a curtain and we just saw his face.
15 We were quite surprised, you know, to see him like that,
16 because we were expecting to see -- to touch him, you
17 know, feel him, but nothing -- we didn't have that
18 opportunity and we were not prepared to go in to see him
19 through a glass and just to see just his face and that's
20 all.

21 "Question: And in terms of being given more
22 information to allow you to prepare, would you have
23 found that helpful before you arrived at the mortuary,
24 or on arrival? What would have been most helpful to
25 you?

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1 "Answer: Most helpful if we would have got that
2 information before we got there. But even so, if when
3 we arrived, they would have told us that information,
4 that would help us as well.

5 "Question: Having not had that information, what
6 impact has that had on you long-term?

7 "Answer: Oh, like I said, a big impact, because all
8 we saw is his face through a glass, through a glass
9 window, and that was it. We didn't touch him, we didn't
10 have that connection with him. We didn't speak to him,
11 you know, nothing at all. He was just there and that's
12 all."

13 Can I invite your comment on that?

14 A. There's a lot to comment about, but certainly I remained
15 within the viewing room throughout, and it is normal
16 practice for the body to be covered, other than the
17 face. And, again, had the questions been asked, I would
18 have sought more information from the pathologist or
19 mortuary staff in particular who were there as to the
20 condition of the body, and then I would have again
21 viewed it myself, and then, prior to -- if the family
22 wanted to do that, I would then have to go back through
23 and explain to them the condition post mortem and
24 prepare them for that, and if they still -- if they
25 wished to do that, during that time I could have made

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1 the phone call to confirm it could be done and it would
2 have been facilitated.

3 But I didn't leave them -- I left -- the only time
4 I left them alone was when they were back in the family
5 room, to allow them some privacy for their emotions, and
6 as and when they were ready to come back out, I would
7 take them out of the mortuary.

8 Q. I think you will appreciate that the tone of Kadi's
9 evidence was that the family were surprised that Sheku
10 was behind glass, and they felt they were denied that
11 opportunity to approach him, touch him, kiss him, talk
12 to him, say goodbye in that way, and your evidence,
13 I think, is that if they had asked, then you would have
14 been able to facilitate --

15 A. I would have done everything possible to facilitate
16 that. From my point of view, this is an -- possibly
17 an example of if I had had direct access with the family
18 from the outset, I could have prepared them to a greater
19 extent in relation to this. We were preparing -- they
20 had asked to view the body, and that contact was through
21 Mr Anwar, quite rightly through their single point of
22 contact. Their wishes, had that been expressed to me
23 through Mr Anwar, or any other member of the family,
24 I would have done my utmost to provide that facility.

25 Q. Okay. You say if you had had access at the outset, and

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1 you clearly feel that you didn't, but what you did have
2 was access to the family on the morning of the 6th. You
3 were there with them in the mortuary itself in advance
4 of the viewing, and you have said several times now if
5 the question had been asked, then you would have been
6 able to facilitate the request.

7 This is a family who, less than three days
8 previously, received the news that they had lost a loved
9 one in the most traumatic of circumstances, and I am
10 wondering whether, with hindsight, rather than expecting
11 them to come to you and say, "Hang on, there is a glass
12 screen here, we didn't expect that, can we please
13 approach Sheku, can we kiss him, can we touch him, can
14 we speak with him and say our goodbyes?", whether, with
15 hindsight, you should have raised the issue with the
16 family.

17 A. I think in those circumstances, in the circumstances we
18 had, yes, I probably could have done. But it was not --
19 I am not dismissing that facility. That facility was
20 there. And could I have asked the question? Yes,
21 I probably could have done.

22 Q. And looking back, might that have been a good thing to
23 do?

24 A. I think I prepared them at the time for what I had, you
25 know, viewed myself at that time, and I had explained to

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1 them it was through a glass window. Hindsight, could
2 I have explored it more and asked if there were any
3 wishes in relation to what they wanted to do? Yes,
4 I probably could have done.

5 Q. And can you understand that a family who are being told,
6 "This is the glass screen, the curtains will part, you
7 will see your loved one on the other side of the glass
8 screen", might not appreciate that they had any other
9 option?

10 A. Yeah. Yeah, I would accept that.

11 Q. And having been told, "These are the viewing
12 arrangements", and being in that immediate phase of
13 shock, having learned less than three days previously of
14 the traumatic death of their loved one, that it might
15 not even cross their minds to ask the question?

16 A. That is possible.

17 I think it's fair to say we are not telling them,
18 "This is how it is". This is the facilities that have
19 been provided at that moment, so I am providing those
20 facilities.

21 And you're right, maybe I should have asked the
22 question as to would they like to -- anything they would
23 like to do, and confirm that. Hindsight, yeah,
24 I probably could have done that.

25 Q. Okay.

Transcript of the Sheku Bayoh Inquiry

1 Can I read you a little more from Kadi's oral
2 evidence:

3 "Question: And after the viewing were you offered
4 any support?

5 "Answer: Nothing at all, no. No.

6 "Question: Is there anything -- looking back now, is
7 there anything that you would have found helpful?

8 "Answer: I think it would have been helpful if we
9 were prepared, you know, what we were going in to see.
10 And after that, you know, any support at all, but we
11 didn't get nothing like that. All we got was they took
12 us into a room to see him and that was it. They said we
13 could stay as long as we could, that's all we got and
14 that was it.

15 "Question: And I appreciate that, by this time, you
16 have instructed solicitors.

17 "Answer: Yes.

18 "Question: Looking back now, would it have been
19 helpful to still have attempts at contact by a family
20 liaison officer or something of that sort?

21 "Answer: Well, these were things I was expecting.
22 If we had a good relationship with the family liaison
23 officer, maybe we would have all been there, you know,
24 for that moral support ..."

25 Do you wish to make any comment on that evidence?

Transcript of the Sheku Bayoh Inquiry

1 A. I understand what they are saying, and that is the whole
2 point -- as I said before, I fully respect their wishes
3 to have a family solicitor involved, but if I do not
4 have, or any FLO does not have, that direct contact with
5 the family on a regular basis, it is a challenge to
6 understand their wishes, and it's a challenge to
7 facilitate a lot of those wishes. Indirect
8 communication creates the situation of possible time
9 restraints. So to get that interaction with the family
10 is important.

11 I disagree with the fact that I didn't offer
12 support. I don't just simply do the job and say,
13 "Thanks very much, that's it", and walk out the door.
14 I always make a point of saying, "Is there anything
15 I can help you with? Are there any questions you have
16 for me that will assist you?" I recollect -- I do
17 remember saying that, because I do it all the time, "Is
18 there something I can do to help you at this moment in
19 time?", and there was, "No, thanks. No, thank you very
20 much", and that was it, and we escorted them off the
21 premises.

22 So it's not a case of me simply doing the job, and
23 here's the viewing and that's it. They can spend as
24 much time as they want -- any family can do -- spend as
25 much time as they want.

Transcript of the Sheku Bayoh Inquiry

1 Q. Looking back now, do you feel that there is anything
2 more that you might have done to prepare Mr Bayoh's
3 family for the viewing?

4 A. I think from the information I had at the time, I did as
5 much as I possibly could have done. As I said, even
6 though the viewing had been done by the family, the
7 family members, I did offer, "Is there anything I can
8 help that would make this situation better for
9 yourselves? Do you have any questions at this time in
10 relation to the investigation?", and there was no
11 questions.

12 I understand the circumstances and the emotions they
13 were under -- going through at that time, and that is
14 the whole point of asking the questions, "Is there
15 anything I can do to help you that will make it" -- I am
16 here -- I am not a counsellor, as I've said before,
17 but I do have the facility -- the ability to facilitate
18 additional requests, and it's -- as I say, worst-case
19 scenario, it's a phone call.

20 Q. Can we go back to the log, please, and to the next entry
21 in the log, which is on page 39 of the pdf. This
22 relates to the meeting afterwards:

23 "12.15 on 6 May. Attended at the office of
24 Aamer Anwar. Ade Johnson plus four family members.
25 DSI Little and SI McSporran present. Questions put to

Transcript of the Sheku Bayoh Inquiry

1 the PIRC and responded to. Agreed it was important to
2 speak to Ade, Kadi, Collette and her mother, Lorraine,
3 and obtain statements. Confirmed he [that must be
4 Mr Anwar] was SPOC for family. Also told of result of
5 PM in the presence of the family by DSI Little.
6 Unascertained subject to toxicology and brain tissue
7 exam."

8 Sorry, can you scroll down a little, please. Thank
9 you.

10 "Also asked to ensure Ade updates Sheku's previous
11 partner on a regular basis."

12 I have a number of questions about this entry.

13 There is a reference here to questions being asked
14 and answers given, and I am wondering why the questions
15 and answers haven't been recorded here in the FLO log?

16 A. Not by me, no. The questions were -- I was there, I was
17 present at the meeting, but the questions were being put
18 to Bill Little and John McSporran. I did see them
19 taking notes, but I don't know what notes they were
20 taking.

21 Q. Okay.

22 About six lines from the bottom, six or seven lines:

23 "Confirmed he was SPOC for the family."

24 I take it that is Mr Anwar.

25 A. Yes. Yes. Ade said that Mr Anwar was -- would be the

Transcript of the Sheku Bayoh Inquiry

1 point of contact, yes.

2 Q. "Also told of result of PM in presence of the family by
3 DSI Little. Unascertained subject to toxicology and
4 brain tissue exam."

5 So who was told the result of the PM?

6 A. Well, to Mr Anwar and the family members present at that
7 time.

8 Q. Okay, and why was that considered necessary if, as you
9 say, you had told Mr Anwar the result of the PM on the
10 evening of the 4th and had assumed that he would have
11 cascaded that information to the family?

12 A. Again, it is maybe Bill Little just reiterating the
13 result of the post mortem. But, you know, that is what
14 he said.

15 Q. "Unascertained subject to toxicology and brain tissue
16 [examination]."

17 There is no entry here to suggest that the family
18 were told that the entire brain and cervical spinal cord
19 had been retained and, indeed, you have already given
20 evidence that that came as news to you today.

21 Can you help us to understand why that information
22 would not have been shared with the family at this
23 meeting?

24 A. I can't, at that time, and I don't specifically -- being
25 aware of that information at that time. So if Billy had

Transcript of the Sheku Bayoh Inquiry

1 that information at the time, I don't know why he didn't
2 go into that detail.

3 Q. "Also asked to ensure Ade updates Sheku's previous
4 partner on a regular basis."

5 Can you explain that entry? It's the final
6 sentence.

7 A. Yeah, it's -- with any -- the dynamics of any family,
8 every single -- any deployment, the dynamics of any
9 family can be -- well, they are completely different.
10 Where there is a previous partner on this occasion, it
11 is -- again, it's important for the role of either the
12 SPOC or, on this occasion, speaking to Ade, that
13 information is cascaded to the family and a previous
14 partner.

15 If there had been an issue in relation to family
16 relationships and we required to deploy another FLO,
17 then we could have done that to assist other members of
18 the family. So being there -- where there had been
19 a split in the family due to relationships, nothing to
20 do with what has happened, but just that's the dynamics
21 of the family, so you wouldn't deploy -- or I wouldn't
22 deploy one FLO into that situation. Potentially two
23 FLOs working together, but if I was dealing with one
24 side of the family, that would have been my job; the
25 other FLO would deal with the other side of the family.

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1 So it's making sure that, you know, information has been
2 cascaded to the family members.

3 Q. So you were aware that Sheku Bayoh had a previous
4 partner with whom he had a child?

5 A. Yes.

6 Q. Is that Connie Barcik?

7 A. Yes.

8 Q. Had you made contact with her?

9 A. No, I hadn't, and that was -- again, that was from
10 a very early stage of speaking to Ade.

11 Q. Okay. Why hadn't you made contact with her?

12 A. Again, you are making -- you're creating a single point
13 of contact with the family, and I explained at the time,
14 if there was any issues at all, to let me know, and
15 I could, again, facilitate that and make sure
16 information was being cascaded.

17 Q. The Chair has before him a statement that was taken from
18 Connie Barcik. It is a PIRC statement. I don't think
19 we need to bring it up on the screen, but the reference
20 is PIRC00072, for anyone following the evidence.

21 In her statement, she confirms that she learned
22 about Sheku's death shortly after 9 o'clock on the
23 Sunday evening via Facebook. A friend had sent
24 a Facebook message and she phoned the friend, who broke
25 the news. Connie then phoned Kadi, who confirmed that

Transcript of the Sheku Bayoh Inquiry

1 Sheku had passed away, and Kadi had told Connie that she
2 had given the police Connie's contact details at
3 3 o'clock that day and thought that Connie knew.

4 Do you have any comment to make on that state of
5 affairs?

6 A. Again, that is -- the delivery of a death message, it is
7 important to identify the family dynamics as much as
8 possible, and once you have identified -- if you have
9 that knowledge of, as I say, on this occasion,
10 a previous partner, it is just as important to deliver
11 the death message to, on this occasion, Collette, but
12 also to Connie. So I would have expected
13 Police Scotland -- and I have had that experience
14 myself, both within the police and other investigations
15 within the PIRC, where you have two -- a previous
16 partner and a new partner, and it's important that that
17 death message is delivered, and, again, the importance
18 of getting the FLOs in to liaise with that side until
19 you establish the full circumstances.

20 Q. Did you become aware at some point that she had learned
21 of Sheku's death through Facebook?

22 A. No, I wasn't aware of that. No.

23 Q. If you had been aware of that, might you have thought it
24 appropriate to make contact with her?

25 A. I would have done, yes.

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1 Q. What would have been the purpose of making that contact
2 with her?

3 A. Again, just to introduce myself and to ascertain for my
4 own point of view that everything was in hand and that
5 she understood what our role was and how, if she needed
6 any information, if the contact for the family, as in
7 Sheku's immediate family and Collette was through the
8 solicitors, then we would have deployed a FLO to assist
9 Connie.

10 Q. I am wondering why it was left to Ade to update her.
11 Ade was the husband of her former partner's sister. It
12 wasn't a particularly close connection --

13 A. Yes, again, this is a conversation you have with
14 families in relation to that, when you become aware of
15 a previous partner, to me that is part of the family
16 make up, that is part of the family dynamics and, again,
17 you want a single point of contact to be updating. So
18 if there's nothing highlighted and there's no issues in
19 relation to that and you get reassurances that has been
20 done, it is not -- I'm not there to criticise. As long
21 as I have that reassurance that that has been done, then
22 I am content with that. If somewhere down the line
23 I establish that that information was not being passed
24 on, again, you take a step back and you reassess the
25 situation; do we need another FLO into the

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1 investigation?

2 Q. Looking back, do you think it was best practice for Ade
3 to be left to update Connie, particularly given the
4 circumstances in which she had come to hear about
5 Sheku's passing?

6 A. I agree with the way she came to find out about it, and
7 that goes back to the very beginning of, if
8 Police Scotland were aware of that, that should have
9 been implemented at the earliest opportunity and then
10 putting FLOs in to establish the circumstances in
11 relation to that, and was there a need for FLOs to be
12 there while -- before we became involved. I would
13 suggest in this, as it has been highlighted, there was
14 a need for that.

15 Q. If we can return to the FLO log, please. There follow
16 some entries that are to do with the practical
17 arrangements for taking statements from witnesses, which
18 I don't think we need to look at. I wonder if we can
19 skip forward to page 45 of the pdf, which I think should
20 take us to 7 May at 9.30 in the morning:

21 "A call on the telephone with Aamer Anwar. Updated
22 Aamer with a general overview of the morning briefing.
23 No details. Confirmed Sheku is a Muslim. No issues."

24 Interested to note that it was on 7 May apparently
25 that Mr Anwar confirmed to you that Sheku was a Muslim.

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1 Had that not been confirmed previously --

2 A. Yes, I think that is maybe just another confirmation
3 of -- through conversation. Because I was aware very
4 early on that he was Muslim.

5 Q. Okay. There then follow some further entries relating
6 to making arrangements for noting statements that
7 I don't think it would serve a useful purpose for us to
8 go through those, and that takes us to the end of the
9 first logbook.

10 There are two further logbooks. I am not intending
11 on going through those. Instead I would like to ask you
12 questions around a number of themes, and the first of
13 those themes is media. I wonder if you can help me to
14 understand what the media strategy was so far as this
15 Inquiry was concerned, particularly with reference to
16 the family.

17 A. In relation to what? Keeping them updated or ...?

18 Q. Yes. I perhaps don't need to take you back to the
19 family liaison strategy but if you will take it from me
20 on page 28 there is an entry that requires the FLO to
21 inform the family of the PIRC media strategy and ensure
22 they are aware of all media releases by the PIRC. There
23 is also a section on page 28 headed "Media matters",
24 which draws attention to the way in which deaths are
25 sometimes reported by the media and the possibility for

Transcript of the Sheku Bayoh Inquiry

1 inaccurate reporting, and the potential impact on
2 families who are already experiencing trauma.

3 I am just wondering what you can tell us about the
4 media strategy that related to this particular case.

5 A. It's the same with any family liaison deployment whether
6 there is a media interest or not, it's preparing the
7 family for the possibility of the media, the possibility
8 of the media turning up at their door. If the media,
9 the press in general, become a nuisance, for want of
10 a better word, to the family and are causing them undue
11 distress, we -- our Corporate Services media can
12 approach editors, producers, et cetera to say: take
13 a step back. And that is -- we can manage that and
14 assist with any kind of intrusion into their privacy.

15 We can also approach the family to allow them the
16 opportunity to choose a photograph of their choice,
17 rather than something off Facebook, for want of a better
18 word. Unfortunately with -- one of the biggest hurdles,
19 which has been demonstrated quite recently, in media
20 coverage of police -- death following police contact
21 down south is the control of that media and how quickly
22 information can get out in the public domain. It is
23 very easy again for me -- the likes of myself or anybody
24 to say try and ignore it. It's almost a physical
25 impossibility nowadays to ignore what has been reported

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1 in the media, on Facebook. You do have people who
2 simply want to be involved, that have no involvement in
3 that situation whatsoever but they want to feel involved
4 and they will vent their feelings or make comments on
5 Facebook or on other social media. So it's controlling
6 that and trying to prepare the family for that. And,
7 again, from a support point of view, can I assist in
8 that? Yes, I can. I can't say we will stop it 100% but
9 we can certainly minimise the intrusion to the family
10 privacy.

11 Q. Can I ask you to look at a press release by the SPF.

12 It's SPF 00010A. We see that it's dated 14 May. It's
13 a media release issued by the Scottish
14 Police Federation. There is an explanation of who they
15 are and what they do:

16 "Speaking in response to comments made at the press
17 conference by representatives of the family, the
18 Chairman of the SPF said:

19 "'The SPF recognises that the family of Sheku Bayoh
20 is mourning his death and that this is a painful
21 process.

22 "The SPF does not wish to add to that pain by making
23 unhelpful comments to the press. We are saddened that
24 his legal representatives appear not to take the same
25 approach. We are also saddened that his legal

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1 representatives are inferring police officers should not
2 have the same legal protections as any other member of
3 the public.

4 "A petite female officer responding to a call of a
5 man brandishing a knife was subject to a violent and
6 unprovoked attack by a large male. The officer believed
7 she was going to die as a result of this assault.

8 "I very much regret that Mr Bayoh sadly lost his own
9 life following this incident, but innuendo and
10 speculation whilst the independent investigation is
11 ongoing adds nothing other than to the pain and grief of
12 the family.

13 "We make no apology for standing up for the rights
14 of police officers and we continue to extend to the
15 family and friends of Mr Bayoh our sincere
16 condolences."

17 I think when you gave your statement to the Inquiry
18 you were shown that media release. We don't need to go
19 to your statement but for reference it's paragraph 119,
20 and you were asked if you recalled it, and you said:

21 "After the event, I do not remember being consulted
22 in relation to any press release but I am aware of the
23 press release."

24 A. Yes.

25 Q. So you knew about it. What I would like to do now is

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1 take you to what was actually reported in the media
2 following on the SPF issuing this release. Can we go to
3 AAC00379, please. Page 7 of the pdf. We see it
4 recorded in the left-hand margin that this is an article
5 from The Herald, dated 15 May of 2015. The heading is:

6 "Custody death family: tell us the truth and let us
7 grieve."

8 Followed by:

9 "Lawyer tells of grave concerns over events
10 surrounding tragedy."

11 If we could scroll down a little, please. If we
12 stop there, please. If we can look at the right-hand
13 column above the words in bold. We see a repeat of the
14 press release by the SPF that we looked at a moment ago.
15 It's both above and below the text in bold. Do you see
16 that there?

17 A. Yes.

18 Q. If we go to a paragraph beneath the text in bold, the
19 next complete paragraph that begins:

20 "Peter Watson ..."

21 Do you see that?

22 A. Yes.

23 Q. So we have the media release from the chairman of the
24 SPF, and it's followed up with this:

25 "Peter Watson of PBW Law said:

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1 " 'While it is deeply regrettable that Mr Bayoh lost
2 his life, I would ask the media and public to remember
3 that a petite female officer was chased and then
4 subjected to a violent and unprovoked attack by a very
5 large man who punched, kicked and stamped on her. The
6 officer believed she was about to be murdered and I can
7 say that, but for the intervention of the other
8 officers, that was the likely outcome.' "

9 Have you seen that before?

10 A. Round about the time it came out, yes.

11 Q. Were you, in fact, required to keep yourself apprised
12 of media reporting on a daily basis as part of your
13 responsibility as FLO?

14 A. Yes, and it goes through Michael Tait I think was our
15 communications officer. He was at every briefing, so he
16 brought us up to speed in everything that was going on.
17 So he was my -- if you like, my point of contact in
18 relation to media matters and he would keep me aware
19 of -- well, the investigation as a whole but I would be
20 aware -- made aware of media releases.

21 Q. We have a statement from Michael Tait and he confirms
22 that he took up his post as media manager on 4 June.
23 Can you help me with who would have been acting in that
24 role between Sheku Bayoh's death and 4 June?

25 A. Not by name, no, but there was somebody there.

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1 Q. There was someone?

2 A. Christine I think was her first name. I am guessing
3 there.

4 Q. Don't worry, I am sure we can find out. But was it
5 the same process? Would someone come along to
6 briefings --

7 A. Yes, and you are right, I remember Michael being there
8 and keeping us updated. I wasn't aware it was 4 June he
9 started but, yes, there was corporate communications
10 within -- and I was kept up to speed in relation to
11 press releases, paper cuttings and things like that.

12 Q. Can we look briefly at an entry in your second logbook
13 that relates I think to this coverage. So the second
14 logbook is PIRC 04151 and it will be at page 11 of the
15 pdf. This is an entry at 10.04 hours on the 15th:

16 "Call from Aamer Anwar questioning ..."

17 Sorry bear with me a second. I wonder if I have the
18 wrong reference. Sorry, can we scroll up a little,
19 please. I beg your pardon, it's the correct entry,
20 I just had the wrong place in this. I am so sorry. We
21 were in the right place after all. If we can scroll
22 down a little, because much the content isn't relevant
23 to the issues I want to ask you about. Four lines from
24 the bottom, so this is in the context of a conversation
25 that you were having with Mr Anwar. He called shortly

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1 after 10 o'clock on the morning of the 15th:

2 "Commented on how the press coverage in the papers
3 today, 15th, is not helpful. Peter Watson police
4 lawyer's statement in particular is deeply unhelpful
5 and that of the Police Federation ... asked about
6 a meeting."

7 And then some other information that is not of
8 direct relevance. Do you recall that conversation with
9 Mr Anwar?

10 A. Yes.

11 Q. What was the nature of the concerns that were being
12 expressed?

13 A. Just that it wasn't helpful, the comments being made by
14 Mr Watson and the Police Federation, and I agreed that
15 it was -- it was unhelpful.

16 Q. If we can scroll on to the next page, please. Next
17 again. I think there is a continuation of this
18 conversation. Here we are, so at 13.48 hours:

19 "A phone call to Aamer Anwar. Expressed our
20 concerns regarding the press coverage. Our concerns
21 have been discussed but we do not want this situation to
22 sidetrack the Inquiry. We are concerned how the press
23 have concentrated on the dispute between both solicitors
24 and how this should not be allowed to distract the
25 progress of the Inquiry."

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1 So it would appear that the PIRC are also sharing
2 their concerns around the reporting?

3 A. Yes.

4 Q. Is that fair?

5 A. Yes.

6 Q. What was the nature of the concerns that the PIRC had?

7 A. Just as it stated there, that the exchange of words
8 between Mr Watson, the Federation and Mr Anwar, whilst
9 obviously highlighting the Inquiry into Sheku's death,
10 it was a concern that it was a distraction. The
11 important thing was that we were investigating the death
12 of Sheku, and it was important that we continued, and
13 language, terminology, et cetera could be a distraction
14 and could be unhelpful.

15 Q. Can we go back to your second Inquiry statement, please,
16 to paragraph 121. You were asked about this entry in
17 the FLO log:

18 "I have been shown the FLO log for 15th of May when
19 in a phone call with Aamer Anwar I expressed our
20 concerns. Our concerns have been discussed but we do
21 not want this situation to sidetrack the Inquiry.

22 "I have been asked what those concerns were in terms
23 of coming from PIRC and those expressed by Aamer Anwar.
24 The role of the FLO is at some point, whether it's just
25 a few lines in the press or it generates some form of

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1 media interest, to explain to the family that we knew
2 there would be high media interest in relation to this
3 and it's trying to ignore what has been said in the
4 press because, if there are any major issues in relation
5 to it, it is for us to decide what is relevant. If the
6 family do read something in the press, then I would
7 expect the family or Aamer Anwar on this occasion to
8 come to me as the single point of contact and inform me
9 of any impact on the family."

10 So you say here that it's your role to explain to
11 the family that you knew there would be high media
12 interests and it is trying to ignore what is being said
13 in the press and it is for you to decide what is
14 relevant.

15 A. Relevant to the lines of enquiry. So you have to try
16 and protect the family or allay any fears in relation to
17 rumours and speculation. So that is the sort of context
18 of that. Prior to social media, an example I can give
19 you is that dealing with a road death which effectively
20 was at the road end of the deceased's home address.
21 Despite the best efforts of myself and the FLOs to get
22 that information to the family, a passing minister had
23 recognised the car and had knocked on the door
24 two minutes before we arrived to tell the husband that
25 his wife had been killed in a road crash, and that was

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1 without social media and that was just within 100 metres
2 of the location. So with social media it is trying to
3 control that. It's trying to control what has been said
4 in the press and what is accurate and what is not
5 accurate and what is relevant to our investigation.

6 So to me this whole exchange between either parties'
7 solicitors, the Federation, et cetera, it is just -- it
8 was not helpful, and it's trying to ... and that is part
9 of the sort of media strategy. When we have a media
10 strategy and it is Crown-directed, ourselves and
11 Police Scotland, it is the Crown who decides what will
12 be released in the media and each party will put their
13 information or their press release into the Crown and
14 the Crown will either agree to it or say it will be held
15 (inaudible) the situation. So that is the control.

16 The Federation -- we, as an organisation, don't have
17 any control over the Federation. As it says there, they
18 are to represent their members and that is their take on
19 it. I can't -- I don't remember the timeline and
20 I couldn't give a timeline in relation to that. It
21 would have been helpful to know it was coming out.
22 I could at least then phone Aamer Anwar and, if
23 I couldn't get him, I would have persisted to phone the
24 family and say: look, this is coming out and this is the
25 content. As I would do with any situation in relation

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1 say later in that entry in your statement:

2 "... to explain to the family that we knew there
3 would be high media interest in relation to this and it
4 is trying to ignore what has been said in the press
5 because if there are any major issues in relation to it,
6 it is for us to decide what is relevant."

7 And you explained what you meant by relevant in that
8 context. So it seems that the advice that you were
9 giving here was effectively to ignore what had been
10 printed in the press; is that correct?

11 A. Not to ignore it but to try and -- it's going to happen
12 it doesn't matter, it's human nature to pick up and read
13 what you read in the press so it was trying to
14 understand the intensity and the volume of any kind of
15 media interest and what is actual fact and relates to --
16 and what is being said, as in somebody's opinions. So
17 it's trying to manage that and the expectations of the
18 family. And if there is something reported in the press
19 that we know is not factual, and we are able to say
20 that, then we can advise the family. But at the same
21 time, especially now with social media, it can throw up
22 lines of enquiry which we need to look at and
23 investigate as we move forward, so it's a necessary
24 evil, for want of a better phrase, that is -- that
25 exists today.

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1 Q. Did you have a conversation with the family about the
2 reporting on the 15th May or was your conversation just
3 with Mr Anwar?

4 A. It was just with Mr Anwar, yes.

5 Q. This commentary was made on 15 May in The Herald at
6 a point in time before the officers had given their
7 statements. So their accounts of what had happened at
8 Hayfield Road were not known, or at least not known to
9 the PIRC.

10 A. That is correct.

11 Q. The reporting, the quotation from Peter Watson, who is
12 the solicitor for the Scottish Police Federation, was
13 presented as very factual; would you agree?

14 A. By Mr Watson?

15 Q. Mm-hmm?

16 A. Yes.

17 Q. There was a reference to a very large man and to
18 a female officer being subjected to an unprovoked attack
19 and that she believed she was about to be murdered
20 and but for the intervention of the other officers that
21 was the likely outcome. So this is from the solicitor
22 relating the SPF and these things were presented as
23 fact. What impact do you suppose those statements would
24 have had on Mr Bayoh's family?

25 A. Again, this is -- it's information that, you know, would

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1 have an impact and actually the discussion we had --
2 I had with Mr Anwar is that was my concern, that type of
3 reporting or media coverage was not helpful. I think we
4 both agreed on that, it was not helpful. And what has
5 been said in the press was not helpful for the
6 investigation.

7 Q. But in your experience as a FLO, what impact would you
8 expect this sort of coverage to have on a family?

9 A. I think it -- well, it would have quite a serious impact
10 on the family.

11 Q. Would you anticipate a family seeing statements of that
12 sort as being an attack on Sheku?

13 A. Yes, I would agree they could perceive that as being
14 an attack on his character, yes.

15 Q. Did you as FLO have any concerns that the solicitor
16 representing the SPF was putting forward these
17 assertions as fact?

18 A. Yes, that is the concerns we had, myself and Mr Anwar
19 discussed. We did have our concerns, the senior
20 management within the organisation had the same
21 concerns, but they are representing their members,
22 Mr Watson was representing the members of the Federation
23 and, as I say, it would have been nice to have maybe
24 been given a heads up that it was coming out, to prepare
25 the family or at least phone Mr Anwar and say: make them

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- 1 aware it was coming out. But I wasn't aware of that.
- 2 Q. What did your media strategy say about managing this
- 3 sort of coverage?
- 4 A. That was the whole point of it. If we were aware of
- 5 it -- I don't remember being aware of it until after the
- 6 event and by that time the damage is done if there is
- 7 any damage to be done at all. If I had known it was
- 8 coming out and that that was what Mr Watson or the
- 9 Federation was putting out Mr Anwar would have got
- 10 a phone call to give him advance notice of it coming
- 11 out.
- 12 Q. What does your media strategy say about responding to
- 13 this sort of coverage?
- 14 A. I can't remember what was in the strategy but that would
- 15 be for senior management to respond to that.
- 16 Q. Certainly in the statement of Mr Tait, who was the head
- 17 of media and communications from 4 June, there is no
- 18 mention made of a written media strategy. Have you had
- 19 sight of a written media strategy?
- 20 A. No, I thought John McSporran had done the strategy for
- 21 that but I am obviously mistaken if there is nothing
- 22 there.
- 23 Q. Have you ever seen a written strategy in connection with
- 24 this case?
- 25 A. No, I have never seen it, no.

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1 Q. As a FLO what steps did you take in response to this
2 article in the papers?

3 A. Again, it was discussed at briefings and it was
4 highlighted that it wasn't helpful, and that was my
5 (inaudible) was to -- obviously when Mr Anwar phoned we
6 had that discussion. So, you know, I do agree with him
7 wholeheartedly, it was not helpful. And it was
8 discussed either at briefings and I assume it was
9 discussed at senior management level between our senior
10 managers and the Crown.

11 Q. Can I ask you to look at another article please
12 AAC 00379, it's at page 27 of the pdf. This was
13 an article from the Daily Record on 5 June. There
14 should be a little section here on the right-hand side,
15 "Probe row", can we look at that. The writing is
16 a little vague but I have it written down here and
17 I will read it out to you. It reads:

18 "The police watchdog investigating Sheku's death
19 yesterday hit back at claims that the officers involved
20 had fully cooperated with the probe.

21 "The Police Investigations and Review Commissioner
22 confirmed it was only after several attempts to
23 interview the arresting officers that they finally
24 agreed to provide statements.

25 "They responded after the Scottish

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1 Police Federation's legal adviser, Peter Watson, said on
2 Tuesday, 'The officers involved have never refused to
3 provide statements'.

4 "'PIRC emailed me this morning at 10.46 am asking
5 for our assistance to organise interviews and we
6 answered at 11.29 am confirming we would be pleased to
7 assist'."

8 So I don't think I need to take you to the media
9 release that is lie behind this article. I think we can
10 see from this article that Peter Watson issued a media
11 release saying that the officers had never refused to
12 give statements, he had been emailed by PIRC that
13 morning, asked to provide assistance and had responded
14 within the hour confirming he would be pleased to
15 assist.

16 The PIRC responded, they issued a media release in
17 response to that and Michael Tait in his statement
18 confirms this was his first day on the job, it was
19 4 June, and he played a part in the issuing of that
20 media release. The way that the press have reported it
21 is that the PIRC had hit back at the claims that
22 the officers hadn't cooperated with the investigation,
23 and said it was only after several attempts to interview
24 the arresting officers that they finally agreed to
25 provide statements.

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- 1 Are you aware of that reporting at the time?
- 2 A. Yes, I am aware of that, the background to that, yes.
- 3 Q. Did you advise the family that the PIRC were going to be
4 issuing that press release?
- 5 A. I don't remember that -- that -- I don't know if you
6 actually have the actual press release from the PIRC but
7 I don't remember being aware of that actual press
8 release. I am aware from the very outset that
9 John McSporran and Bill Little, and I think
10 John Mitchell, as well as the Commissioner had been in
11 contact with the Federation and Mr Watson in relation to
12 interviewing the officers, as witnesses. As I say, my
13 recollection of that is from the very outset that we
14 wanted to speak to them as witnesses and arrange that,
15 and I think -- I stand to be corrected but I am sure
16 there was an email trail in relation to that as well
17 prior to, if you like, the official response from
18 Mr Watson.
- 19 Q. I think my question was did you tell the family about
20 the press release in advance?
- 21 A. I can't remember if I had spoken to Mr Anwar in relation
22 to that or -- I don't actually remember that actual
23 press release being made aware to me in relation to
24 actually that response from the Commissioner or from
25 Mr Mitchell.

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1 Q. I think there is a paragraph in the family liaison
2 officer policy document that says:

3 "FLOs must ensure they are in a position to notify
4 families of any form of media release made by the PIRC
5 prior to it being broadcast or published."

6 I think we looked at this paragraph earlier on, so
7 I am just wondering whether you made the family aware
8 and if not, why not?

9 A. I can't remember but at certain -- throughout the
10 investigation from very early on there was a lot of
11 communication that I was aware of, that was going on,
12 but it was being dealt with at a more strategic level.
13 So whilst I was receiving emails from Mr Anwar it was
14 maybe Mr McSporrان or Mr Mitchell or the Commissioner
15 who was responding to it, that particular one, I don't
16 remember being made aware of that response and had
17 I been made aware yes, I would have contacted again
18 Mr Anwar, he was the point of contact, to make him aware
19 of that.

20 Q. I wonder if you can help me with this and it may be you
21 don't have an answer to this question but I am
22 interested to know why the PIRC didn't respond to the
23 reporting that we discussed before lunchtime,
24 Peter Watson's statement that might have been taken as
25 an attack on Sheku Bayoh's character, why they chose not

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1 to respond publicly to that statement but they did
2 choose to respond to this later statement that might be
3 seen as being critical of the PIRC?

4 A. I think it is more of a question for either
5 John Mitchell or Kate Frame, the Commissioner at the
6 time, as to why those responses were not agreed.

7 Q. Can I look briefly at another article with you please,
8 AAC 00381 at page 38 of the pdf. So the heading here
9 and this is the Sun, Sunday 1 November:

10 "Doc: Sheku had heart disease."

11 If we scroll to the white box:

12 "Exclusive.

13 "Custody death dad Sheku Bayoh was suffering from
14 heart disease before his fatal collapse, a forensic
15 expert has claimed.

16 "World renowned expert Dr Steven Karch discovered
17 the potentially fatal defect after examining his corpse.

18 "The discovery came when police investigators turned
19 to a range of experts to uncover exactly how Sheku, 31,
20 lost his life after officers restrained him.

21 "Dr Karch told The Scottish Sun on Sunday: 'I can
22 tell you that I saw evidence of heart disease.

23 "'I am not at liberty to say any more at this
24 stage'."

25 Have you seen this before; are you aware of this

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1 reporting?

2 A. No, I have not seen that actual -- that specific
3 article.

4 Q. Can you explain to me why this isn't on your radar given
5 your responsibility to liaise on a daily basis with the
6 media officer?

7 A. I think -- I was probably made aware of that specific --
8 actually reading it -- I don't recall actually reading
9 it but I think by that time there was concerns about
10 information being in the public domain and how was that
11 information getting there. This might have been one of
12 those articles. I honestly can't remember. But there
13 was that type of information. How was that information
14 getting into the public domain? I don't know.

15 Q. I am not asking you to comment on how it got into the
16 public domain, I am just interested to know whether
17 you've seen this before?

18 A. I don't remember seeing that specific article. That
19 doesn't mean to say I wasn't shown it, because I had --
20 excuse me, as well as media updates I would have my own
21 alerts on the phone through media and if I hadn't seen
22 something like that colleagues would have mentioned
23 it: have you seen ...? And if I hadn't, I would read
24 it.

25 Q. Would you anticipate the content of that article would

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- 1 cause distress to the families?
- 2 A. Oh, yes.
- 3 Q. I am wondering whether you contacted the family in
4 response to this reporting?
- 5 A. Not by that time. But again, from recollection these
6 sorts of articles were coming out after ... we had no
7 control over this or I was not aware of that, so these
8 articles were coming out and I was finding out about it
9 after the event, which wasn't helpful. Again, going
10 back to the discussion with Mr Anwar, these -- this
11 information has got out, how was it getting out there?
12 So yes, I am aware of these sorts of articles coming out
13 but, you know, again they are not helpful.
- 14 Q. So we have an article that is unhelpful and would likely
15 have caused distress to the family. Why didn't you make
16 contact with the family?
- 17 A. I think it might have been part of the discussion with
18 Mr Anwar in general about the media coverage, not
19 specific articles. So he would be my point of contact
20 in relation to that, so we had had that discussion in
21 relation to this. And it's -- it was ongoing throughout
22 the investigation.
- 23 Q. I am wondering whether looking back this might have
24 an opportunity to reach out to the family, re-establish
25 contact, and try to offer support?

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1 A. Yes, again that is my role, and -- the point of contact
2 was -- as I say was reiterated time again, it is through
3 Mr Anwar. So yes, I would -- if I had -- even after the
4 event if I had read that and became aware of it after
5 the event, very much so. And in normal circumstances
6 I would have been on the phone to the family, any member
7 of the family. And if they had raised any concerns
8 about that, I would have dealt with it as normal.

9 Q. Can we look at one final article very briefly please in
10 AAC 00384 at page 19 of the pdf. So this is the
11 Mail on Sunday, 23 September 2018, bold headline here:

12 "Sheku death: police cleared."

13 And if we scroll down a little, in the middle
14 paragraph at the bottom we see:

15 "Now, according to a well-placed source within the
16 justice system, the country's chief prosecutor has
17 decided the officers should not face any criminal
18 charges. The Scottish Mail on Sunday understands the
19 Lord Advocate believes the evidence does not support
20 a prosecution against the officers who restrained
21 Mr Bayoh."

22 There may be evidence before the Inquiry to the
23 effect that this was leaked to the media before
24 the family were made aware of the Lord Advocate's
25 decision in relation to a criminal prosecution. Leaving

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1 that issue to one side, I would like to know whether you
2 were aware of this reporting?

3 A. No.

4 Q. No. Again, why not? If you have daily briefings with
5 a media officer, you were the FLO and there is
6 a significant leak about a no pro decision, why has that
7 not been brought to your attention?

8 A. Again, this is 2018 and the final report had been
9 submitted to the Crown Office in 2016, I think and that
10 is a -- at the end of any sort of FLO deployment that is
11 a natural exit from the family because within the
12 Crown's and Procurator Fiscal Service you have VIA, the
13 Victim Information Agency, which is effectively the
14 family liaison role within the Crown Office, and again
15 we would -- if the family wished it we would have
16 a handover to the Crown. So albeit my current FLO log
17 is open, it's still open because on this occasion there
18 was no completion of the exit strategy. By that time
19 the report had gone to the Crown and that is a natural
20 step back from our -- the role as family liaison and
21 allow the Crown Office and their liaison with the family
22 to take over from there.

23 Q. So should we understand that by this point in time
24 because the final report had been submitted, although
25 your exit strategy hadn't been implemented, you had

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1 effectively dropped out of the picture?

2 A. Well, official -- my FLO log to this date is still open.

3 I am aware of not that particular heading but I was
4 aware of that reporting in 2018, and the news, the
5 national news.

6 Q. So did you make any contact with the family at that
7 time?

8 A. No.

9 Q. Can I move on very briefly to the final matter I would
10 like to discuss with you today, it relates to lessons
11 learned and at the very beginning of your evidence you
12 said that when you were FLO co-ordinator you would bring
13 the team together at least twice a year to discuss
14 significant cases and lessons learned. Did you ever
15 bring your experience in Sheku Bayoh to one of those
16 meetings?

17 A. Not specifically because we hadn't had a debrief in
18 relation to Sheku Bayoh, so lessons learned -- there are
19 always lessons learned from any sort of deployment,
20 specifically about Sheku Bayoh. I don't recollect us
21 having -- bringing anything to the table at that time.

22 Q. You said you hadn't had a debrief, what you do mean by
23 a debrief in that context?

24 A. Well, irrespective of the size of an investigation,
25 large or small, it is -- well, me personally, you take

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1 a step back to look at could I do something differently
2 is there something that maybe another investigator or
3 a deputy senior investigator did something differently
4 in their investigation which would improve my processes
5 in a future investigation. So you always have these
6 sort of discussions, you know, if people have dealt with
7 a death following police contact in similar
8 circumstances or some similar circumstances. Was there
9 something we learned from that from a Police Scotland
10 point of view, learned outcomes, is it something we need
11 to look at again?

12 So there is always an opportunity take a step back
13 and look at what you did, no matter how small or how
14 large that investigation is, so as far as this
15 investigation is concerned there was no official debrief
16 of us all getting around a table and talking about it.

17 Q. Is a debrief as you have described it the same thing as
18 a lessons learned exercise, or are they different
19 things?

20 A. Effectively. Any investigation, especially the bigger
21 ones, investigations like this one, I think the Glasgow
22 shooting is probably another example I could give you
23 whereby we had a debrief and lessons learned: what could
24 we do differently, could we do anything better? Did we
25 spend too much time on a certain area when we could have

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1 prioritised other things better? So that is, yes, your
2 learned outcomes.

3 Q. Who organises these debriefs?

4 A. Senior management if they are involved with it. From
5 a team point of view, sitting around a table with my
6 team discussing any sort of issues in relation to their
7 investigations or around investigations of other teams.
8 There is no -- I personally think it is a good idea to
9 sit around the table and discuss these sorts of things
10 and same with the family liaison, if there is something
11 we can do that will improve the service then by all
12 means do so and that is why we had that -- or we
13 implemented a kind of a spreadsheet, for want of
14 a better word, which at the very end had learning
15 outcomes and these meetings would be discussing any
16 learning outcomes.

17 Q. But why would the lack of a formal debrief organised by
18 senior management get in the way of you take the
19 Sheku Bayoh case to your twice yearly meetings that you
20 arranged with other FLOs to discuss the sharing of
21 experiences and learning lessons?

22 A. There is nothing to stop me doing it. But I wouldn't
23 like to do that without first having a formal debrief
24 from an organisational point of view, where I put
25 forward my ideas and make sure -- because there will

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1 always be -- from a FLO point of view there may well be
2 learning outcomes but those learning outcomes from a FLO
3 point of view may also impact on the processes
4 throughout that whole investigation, so I would wait
5 until I had that official debrief, for want of a better
6 word, and then I would sit down with the FLOs, and
7 discuss these sorts of things.

8 Q. Did you at any stage say to senior management: are we
9 going to have a debrief on this case from a FLO
10 perspective, I might find that helpful?

11 A. I think not just me, you know, other staff did. You
12 know: when are we having a debrief? We had the M9 crash
13 at the same time so it's getting that time. So there is
14 always a time to do it, it's getting that right time to
15 do it, so it's not just me who would ask these sorts of
16 questions, it was a general: when are we having
17 a debrief, is there going to be a debrief?

18 Q. Has there ever been a debrief?

19 A. No.

20 Q. Was there a debrief in the M9 case?

21 A. No.

22 Q. Can I take you back to evidence that you gave on the
23 first day of your evidence, earlier in February, when we
24 were talking about your primary role being of that of
25 investigator. And I have pulled this from respect

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1 transcript. I said to you:

2 "Question: As you say your primary role is that of
3 an investigator and I wonder in your experience do
4 families understand that you are first and foremost
5 an investigator?"

6 You replied:

7 "Answer: It is certainly explained to them at the
8 very outset what the role is or my role is. And yes, we
9 do make it quite clear that we are investigating the
10 circumstances and that I would their family liaison
11 officer.

12 "Question: In your experience does it concern
13 families that their family liaison officer is embedded
14 within the investigation team?"

15 "Answer: From my experience, no. They understand
16 the nature of the investigation and what our role is."

17 I wondered if I could perhaps simply revisit that
18 with you very briefly. We may hear evidence further
19 down the line from an inquest, from Deborah Coles'
20 inquest to the effect that families sometimes feel --
21 they feel under investigation themselves or they feel
22 that the FLO has tried to obtain information from them
23 about their loved one, potentially to discredit their
24 loved one. And families have reported a sense they are
25 being spied on rather than feeling that the FLO occupies

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1 a neutral and supportive role. And the impact of this
2 is an undermining of trust and confidence, and
3 a breakdown in the relationship between the family and
4 the FLO. I wondered if I could simply invite your
5 comment on that?

6 A. I understand that. I think it comes down to the
7 individual. As with any training you can train people
8 to do a specific job, instructors will tell you that you
9 can train anybody to do a particular job, thereafter it
10 is up to you how you use that skill. I have had that
11 sort of feedback from having attended courses and
12 families saying they felt under investigation
13 themselves, I think that is down to the individual
14 rather than -- they're maybe not explaining themselves
15 properly, that has been identified as well.

16 Maybe the easiest -- not the easiest one, but
17 something to highlight is that families identified very,
18 very quickly that if a FLO delivered the death message
19 all they saw every time that FLO came in was that person
20 who delivered the death message, so from that input from
21 families it was decided very, very early on in family
22 liaison that unless it could not be avoided then you had
23 to get that death message delivered as soon as possible.
24 As soon as you had identified that person, you had to
25 deliver that death message because it was important to

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1 do that, and ideally not the family liaison officer.

2 So there is always learning outcomes, I understand
3 that, and yes, I can understand again from case studies
4 of Stephen Lawrence, how the family were treated in
5 relation to that and they felt under investigation
6 rather than a liason. It is down to the likes of myself
7 and other FLOs to address that situation, and deal with
8 it and not to make the family feel that they are being
9 investigated. At the same time we need a picture of the
10 dynamics of that person, who is that person, what is
11 that person's lifestyle. I have been there before --
12 again, many years' experience of parents not knowing the
13 lifestyle of their loved one, and it's not uncommon to
14 find a sibling or another member of the family who can
15 provide the information. It is not an attack on their
16 character, it is building a picture of that person to
17 deliver to the Crown and present to the Crown a full
18 picture. To tell a story for want of a better word: who
19 is this person?

20 Q. Is there anything that you can think of that could be
21 done to help remove that tension between the FLO wearing
22 two hats, being first and foremost an investigator but
23 also the family liaison support? Could things be done
24 differently in any way that you could think of that
25 might prevent families from feeling that they themselves

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1 are under investigation?

2 A. Any situation, is there a learning outcome from that
3 point of view? You are obviously talking at a national
4 level. Is it feasible to have a FLO simply being a FLO?
5 How can that FLO be a FLO without actually being part of
6 the investigation team, to get the information required
7 to support that family? If you are the FLO and you are
8 not getting that information through the investigation
9 I would suggest that if you are sitting there
10 going: I don't know, I can't tell you that. I don't
11 know, I can't tell you that. That will only cause more
12 frustration and more anger. So you have a role to play
13 as in investigating the circumstances but you have that
14 skill and that area of assistance and support to bring
15 to the family as a family liaison officer and to that --
16 well, with any deployment you are not -- whilst you are
17 an important part of the investigation team, you're not
18 going out seeing all different people, you have
19 a specific task in relation to the family and dealing
20 with the family.

21 So could it be something different? Maybe it could
22 be but it would need to be at a national level and it
23 would need to be delivered to all the FLOs throughout
24 the United -- well, throughout the world, this is how it
25 is going to have to be.

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1 Q. Do the PIRC seek feedback from families who have
2 received a service from a FLO?

3 A. We did early on. I didn't agree with it. It was more
4 or less a tick the box exercise: please fill out this
5 form and tell us how good we were or how bad we were.
6 I like to speak to the family at the end of any
7 deployment, and especially if I have done something
8 wrong I would like them to tell me I have done it wrong
9 because then it's a learning outcome for me. I can say
10 hand on heart that every deployment I have had over the
11 years everybody has thanked me for the service I have
12 provided. I have been verbally abused, I have been
13 assaulted, I have been -- and that is just part of
14 the -- I won't say it goes with the job but you're
15 sitting there as part of the -- for want of a better
16 word the position of authority in relation to
17 investigation, and if the family take their anger out on
18 you and it makes them feel better, well, my person
19 opinion is that that is what you are there for. You are
20 there to support them. If it makes them feel better by
21 shouting and swearing at you and punching your chest and
22 all that sort of thing, then so be it. Which has
23 happened to me in the past, but it is not -- there is no
24 intent to cause any serious injury or verbally insult me
25 or anybody -- any member that has worked with me.

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1 Q. You say that in every single deployment of your career
2 you have received thanks, does that include the
3 deployment to the Sheku Bayoh family?

4 A. No, it's the only deployment I have ever had where
5 I have not completed an exit strategy and it's the only
6 deployment I have never had the direct opportunity to
7 sit down with the family.

8 Q. I am wondering looking to the future, notwithstanding
9 your reservations, whether there might be something to
10 be said for a formal process whereby the feedback of
11 families who have received a service from a FLO is
12 ingathered, potentially anonymously, to allow lessons to
13 be learned not just on an individual basis but on, if
14 you like, a corporate basis, and for that to feed into
15 training of FLOs in the future?

16 A. Yes, it is something to feed into national training. It
17 is not for me to say it's right and wrong. The way we
18 did it early on, I didn't agree with it. I did
19 supply -- I never got -- nobody responded to it.
20 In fairness to a lot of families, they don't want to
21 hear from me again, they don't want to -- they want to
22 draw a line and move forward. It is something -- not
23 being disrespectful here but we did with a family, we
24 did have laugh between myself and the family that after
25 having been through contact with the Crown Office and

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1 through the Procurator Fiscal dealing with that
2 investigation, and I think it was after fatal accident
3 inquiry, my family SPOC said: no offence Alistair, but
4 does that mean I can take your contact details out my
5 phone? And we had a laugh about that and I said yes,
6 you can.

7 MS THOMSON: Thank you, Mr Lewis. Bear with me a second.

8 Thank you, sir, I have no further questions.

9 LORD BRACADALE: Thank you. Any Rule 9 applications? Just
10 Ms Mitchell.

11 Mr Lewis, would you mind withdrawing to the witness
12 room while I hear submissions.

13 (The witness withdrew)

14 LORD BRACADALE: Ms Mitchell.

15 Rule 9 application by MS MITCHELL

16 MS MITCHELL: I am obliged. I have taken the precaution of
17 numbering my questions, my Lord, in the hope that will
18 assist me not to fall into the error I have done before.

19 The first question is in relation to something that
20 this witness said in his evidence on the first day he
21 gave evidence. He was asked about the fact that
22 Collette Bell had expressed the view that they were --
23 the PIRC were made up of ex-police officers. It was the
24 police investigating the police. He said:

25 "Answer: I am confident I could have allayed any of

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1 these fears. Personally speaking, as the family liaison
2 officer I would have preferred more interaction with the
3 immediate family, I am confident that I could have
4 explained the circumstances. And her perception is that
5 they are all retired police officers. That is not the
6 case, even back then it was not the case. So I had that
7 ability to -- that confidence to clarify the situation."

8 Given clearly what this Inquiry has heard about the
9 fact that five out of six of the police officers who
10 attended on that first day were ex-police officers, and
11 the statements of Maurice Rhodes' evidence about
12 Pat Campbell, what I am wondering was what could or
13 would be said to families to assure them in those
14 circumstances of any fears they might have about
15 the police investigating the police.

16 The second issue, number two, relates to
17 independence of the police. On the day he gave
18 evidence, 8 February 2024, Day 78 at paragraph 43
19 Mr Lewis says:

20 "Answer: Our main objective is to ensure that
21 policies and procedures within Police Scotland are fit
22 for purpose and if we can improve the public's
23 confidence or enhance the public's confidence by
24 criticising that and making sure those policies and
25 procedures are there for ..."

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1 The word is recorded as "offencer" but I think it's
2 officer:

3 "... on the street, then that is a good outcome."

4 What I would like to ask him about that, given his
5 views on finding ways to improve confidence, is
6 a question about whether or not it would be a good idea
7 for both PIRC and police officers to require to make
8 declarations if they are members of any societies, such
9 as the Masons.

10 Further, to ask if PIRC has any requirement to
11 provide their employer if they are members of any
12 societies. Just to ascertain for the Inquiry would it
13 be helpful if Police Scotland and PIRC were required to
14 keep a register of membership of such groups.

15 The third issue is in relation to Collette Bell's
16 statement. This Inquiry knows that Collette Bell gave
17 evidence that she was asked on the first day, 3 May,
18 about Sheku Bayoh's religion, and this Inquiry also
19 knows that Mr Anwar at a later stage was asked to
20 clarify his religion. But in evidence this witness said
21 earlier today that in giving evidence in respect of
22 document number 00028, that is PIRC 00028, it was
23 volunteered by Collette Bell that Sheku was a Muslim:

24 "I would not describe him as a strict Muslim. It
25 might be fair to say that he had his own way."

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1 And it goes on to talk about praying et cetera.
2 What I want to clarify with him is: is he sure, given
3 the terms of the statement, that he was being asked that
4 she had confirmed this, whether or not in fact this was
5 in response to direct questions from him rather than her
6 volunteering this information.

7 My fourth question was whether or not at any point
8 he enquired as to whether or not all members of Sheku's
9 families were Muslim. They were not, my Lord, and the
10 question is whether or not any further enquiries, even
11 later down the line, were made in that regard.

12 The fifth and final question relates to the issue of
13 tissue samples. The Inquiry will recall the evidence of
14 earlier today about the fact that this witness indicates
15 that he did not pass on information about tissue samples
16 to the family. And he said at [draft] line 35/14 and
17 following that:

18 "Answer: The information provided to [him] by Billy
19 was that it was unascertained pending toxicology, the
20 actual -- what had been retained and are what had been
21 taken [that's the actual draft transcription] hadn't
22 been clarified at that time."

23 He then went on at [draft] 38/15 when asked about
24 the important issue of samples he said:

25 "Answer: ... I wouldn't have ignored it. I would

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1 LORD BRACADALE: Mr Lewis, Ms Mitchell KC, who represents
2 the families of Sheku Bayoh, has some questions for you.

3 Questions from MS MITCHELL

4 MS MITCHELL: I am obliged. The last time you were here you
5 gave evidence in respect of Collette Bell having formed
6 the view that PIRC were made up of ex-police officers
7 and it was the PIRC -- it was the police investigating
8 the police; do you recall that?

9 A. Yes.

10 Q. The evidence you gave in respect of that was that you
11 were confident you could have allayed those fears. You
12 said:

13 "Answer: Personally speaking, as a family liaison
14 officer I would have preferred more interaction with the
15 immediate family, I am confident again I could have
16 explained the circumstances. And her perception is that
17 they are all retired police officers. That is not the
18 case, even back then that was not the case. So I had
19 the ability to -- the confidence to clarify that
20 situation."

21 This Inquiry knows of course that five out of the
22 six police officers -- sorry, five out of the PIRC
23 officers who attended that day, the first day, were
24 in fact ex-police officers?

25 A. Yes.

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- 1 Q. And the Inquiry has heard evidence as well given by
2 Maurice Rhodes that Pat Campbell said a phrase:
3 "Ah, it's a Strathclyde Police reunion".
4 My question to you is: given the fact you had
5 confidence that you would be able to allay those fears,
6 what was it that you would have said that would have
7 allayed those fears?
- 8 A. I would have given them -- Collette or any member of
9 the family a breakdown of the organisation as to how
10 many -- we weren't all former police officers, there
11 were staff from -- who had no police background. We
12 also had a trainee programme who have no police
13 experience whatsoever. So I could have used that as
14 an example and, at the end of the day, it would have
15 come down to me as their point of -- or Collette's point
16 of contact to -- if they had any issues, to raise that
17 with me and I would have addressed them at that time.
- 18 Q. But you would simply explain that they weren't all
19 ex-police officers --
- 20 A. There is no -- I have never -- in any deployment there
21 is -- even as an investigator not involved in family
22 liaison I have explained to families or witnesses as to
23 who we are and what we are. I think initially it was
24 from maybe -- I think the then Commissioner only had
25 six months to create the PIRC and, even then, there was

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1 still a mixture of former police officers and people
2 from a different background. We have had a trainee
3 programme where I think I would say twelve members of
4 staff have come through that trainee programme. They
5 are the future of the organisation, of that there is
6 no doubt. And that again would have been an example
7 I could have given them; that we have had to hit the
8 ground running back then but the organisation as a whole
9 is progressing how to minimise that.

10 Q. I was just -- with respect, "back then" is --

11 A. Yes --

12 Q. -- what we were talking about. How would you have
13 allayed those concerns. Do you know at that time what
14 percentage of PIRC were ex-police officers?

15 A. I think, and this is just a guess, maybe 60/40.

16 Q. I think the Inquiry has heard information about how many
17 there were, so we will leave that for the Inquiry. I'd
18 like to move on, please, in relation to the statement
19 that was taken from Collette Bell, and I wonder if we
20 could have PIRC 00028 up, please. Can we have the
21 paragraph up on screen which starts:

22 "Shek was a Muslim ..."

23 Which I think is on page 3. Do we see there it
24 says:

25 "I now wish to confirm some further points to PIRC."

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1 Do you see that?

2 A. Yes.

3 Q. If you have that on the screen.

4 A. Yes.

5 Q. In evidence you said that you were present when the
6 statement was taken and you said:

7 "We didn't ask. She confirmed she wanted to confirm
8 some further points to us."

9 And then slightly later said:

10 "She volunteered."

11 I would ask you to look at this. Just looking at
12 the way it says:

13 "I now wish to confirm some further points to
14 PIRC ..."

15 What was she confirming? What does "confirm" mean
16 in that sentence?

17 A. Well, I can only say what is written down there.

18 I think it was John Clerkin that took the statement, so
19 do I remember Collette saying those exact words? No,
20 I couldn't say I remember that. I do remember her
21 wishing to make points to PIRC, and that is what was
22 recorded and was either read over to her or she read
23 over her statement as well. So ...

24 Q. Why would you think she would want to make those points,
25 about what type of Muslim he was, whether or not he

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- 1 prayed? Why --
- 2 A. It's part of the dynamics of family is -- I think I said
3 earlier, is that we are trying to understand who Sheku
4 was and any member of the family when you are dealing
5 with a death investigation; who is this person, what is
6 the family dynamics, and to feed that back into the
7 investigation as to what we can or cannot do in relation
8 to the further investigation.
- 9 Q. Yes, but, with respect, that is questions you are
10 asking, not questions --
- 11 A. Yes.
- 12 Q. Why would she be volunteering this to you as something
13 that she would have thought important --
- 14 A. I don't know. I don't know. I can't remember why she
15 would have --
- 16 Q. On reflection, and given what you see before you, is it
17 not the case that you discussed with her these matters
18 and she provided that information to you as a result of
19 questions asked?
- 20 A. I can't remember the exact wording that John might have
21 used. He would be leading that statement, because he
22 was taking it. Did he use that terminology or ... is it
23 Collette that said that? I can't remember.
- 24 Q. Do you agree with me it would be a curious thing for
25 Collette in those circumstances to simply volunteer?

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- 1 A. I think using that term -- looking at that, it does --
2 "I now wish to confirm some further points to PIRC ..."
- 3 Q. It's the confirmation. I am wondering what she would be
4 doing "confirming" things?
- 5 A. I don't know. As I say, I can't remember the line of
6 questioning in relation to that as to how that came
7 about.
- 8 Q. Would a straightforward reading of that suggest, rather
9 than her volunteering that, she was confirming points
10 that had been raised in the interview to the
11 interviewer?
- 12 A. Reading it in that -- like that, yes, it could be
13 inferred. But there was no -- there was no line of
14 question to get that information out of Collette. Now,
15 whether the right terminology has been used there or
16 not, I can't remember if that was exactly what was said.
- 17 Q. I want to move on and ask you other questions about
18 religion. When you spoke to the families of
19 Sheku Bayoh, did you enquire as to whether all members
20 of the family were Muslim?
- 21 A. No.
- 22 Q. Should you have?
- 23 A. Yes, probably could have done at a later time, yes.
- 24 Q. Because if you had found out in fact, as is the case,
25 that it is not all members of the family are Muslim,

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1 some have different religious beliefs, that would have
2 been and should have been important for you to know?

3 A. Yes, it would have been, yes.

4 Q. The next issue is that of tissue samples that I want to
5 ask you about. You say that you didn't know shortly
6 after the post mortem about tissue samples, and I think
7 from your evidence this morning you make clear that the
8 issue of tissue samples and body parts, that would be
9 an important thing for the family to want to know
10 because it is a very sensitive issue. You gave evidence
11 earlier today at line 38/15. You said:

12 "I wouldn't have ignored it ..."

13 And that is what you are talking about, the issue of
14 samples, you say:

15 "I wouldn't have ignored it. I would have got
16 information and, as I say, we did get more information
17 and that was passed to the family."

18 Is that your collection?

19 A. As far as I can remember, yes.

20 Q. Well, can you tell us, for example, when you found out
21 about the fact that tissue samples, et cetera had been
22 taken?

23 A. I think when we had the meeting with Mr Anwar and the
24 family Billy talked about the brain tissue.

25 Q. Was that something that should have been noted down in

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- 1 the logs?
- 2 A. In the FLO log?
- 3 Q. Yes.
- 4 A. He could have written it down in the FLO log.
- 5 I wasn't -- at that time wasn't taking any notes in
- 6 relation to the meeting. The questions were being
- 7 directed to Billy and John McSporran. I certainly -- I
- 8 wasn't taking notes for the meeting itself.
- 9 Q. You heard evidence this morning that you said was new to
- 10 you in relation to the brain and the stem, is that
- 11 correct?
- 12 A. Yes.
- 13 Q. That was never known to you?
- 14 A. No.
- 15 Q. Again, should that have been known to you?
- 16 A. Yes, I ... whether -- I don't remember reading it, but,
- 17 yes, I would have preferred more detail about that.
- 18 Q. And given the fact that you say you didn't know about
- 19 it, that means that at the meeting that you were at with
- 20 Mr Anwar and the rest of the family that wasn't raised
- 21 as an issue then?
- 22 A. I don't remember that detail being passed to Mr Anwar
- 23 and the family, no.
- 24 Q. No. It should have been passed to the family?
- 25 A. Yes.

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1 Q. And that was the responsibility of PIRC to do so?

2 A. Yes.

3 MS MITCHELL: My Lord.

4 LORD BRACADALE: Ms Mitchell, just in relation to one matter
5 that you raised with the witness as to whether
6 a particular matter should have been recorded in the
7 FLO, I do notice from the entry on 6 May at 12.15, which
8 notes what Mr Little said to the family, he said that it
9 was "... unascertained subject to toxicology and brain
10 tissue examination."

11 MS MITCHELL: I am obliged.

12 LORD BRACADALE: Just to put that on the record.

13 MS MITCHELL: I am obliged.

14 LORD BRACADALE: Thank you. Thank you very much, Mr Lewis,
15 for coming to give evidence to the Inquiry. That is
16 the end of your evidence and I am grateful for your
17 time. I am about to adjourn for the day and you will
18 then be free to go.

19 A. Thank you, my Lord.

20 LORD BRACADALE: The Inquiry will now adjournment.

21 (3.15 pm)

22 (The Inquiry adjourned until 10.00 am on Monday,

23 4 March 2024)

24

25

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