

Transcript of the Sheku Bayoh Inquiry

1

2

Friday, 21 June 2024

3

(10.00 am)

4

LORD BRACADALE: Good morning, Lady Angiolini.

5

A. Good morning.

6

LORD BRACADALE: Will you take the oath.

7

Evidence of LADY ELISH ANGIOLINI

8

Examination-in-chief by MS GRAHAME

9

LORD BRACADALE: The next person you see should be

10

Ms Grahame, Lady Angiolini.

11

A. Thank you very much, my Lord.

12

LORD BRACADALE: Ms Grahame.

13

MS GRAHAME: Good morning.

14

A. Good morning.

15

Q. You are Lady Elish Angiolini?

16

A. I am.

17

Q. And I would like to go through some of your background,

18

but may I say at the outset, as you're remote,

19

occasionally we do have issues with the technology and

20

if at any point you have difficulty hearing me, please,

21

maybe raise your hand or gesture in some way and we will

22

try and rectify the matter immediately.

23

A. Thank you.

24

Q. Now, some years ago you started your career as a lawyer

25

in the Procurator Fiscal Service and I understand you

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1 began as a procurator fiscal in Airdrie; is that
2 correct?

3 A. Yes.

4 Q. And you thereafter moved to Grampian, Highland and
5 Islands, again with the Crown Office and Procurator
6 Fiscal Service and, ultimately, became Solicitor General
7 and then Lord Advocate between 2006 and 2011?

8 A. Yes.

9 Q. You practiced at the Scottish Bar for a period after
10 leaving your office as Lord Advocate and then became
11 principal at one of the colleges at Oxford University?

12 A. Yes.

13 Q. And I understand that's where you are today, you're at
14 Oxford University?

15 A. Yes.

16 Q. Now, in 2012, you moved to Oxford and, as I understand
17 it, your current role is now as Pro-Vice Chancellor of
18 Oxford University?

19 A. That's one of my hats, yes, in the university.

20 Q. Thank you. And then in 2002 you were appointed by
21 Queen Elizabeth II Elizabeth II as a lady of the Order
22 of the Thistle?

23 A. Yes.

24 Q. And in June of last year, you were appointed to the
25 office of Lord Clerk Register by King Charles III?

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- 1 A. Yes, that's right.
- 2 Q. And for some they may know you because you were actually
3 in attendance at the king's coronation?
- 4 A. Yes.
- 5 Q. And, in fact, you are the first woman to have ever held
6 that role of Lord Clerk Register since its creation in
7 the 13th century?
- 8 A. Yes, that's right.
- 9 Q. You're here today to assist the Inquiry because you have
10 over the past few years prepared a number of reports and
11 conducted reviews and I would like to go through those
12 with you in turn to see what assistance they may be able
13 to help the Chair with. But first of all, am I right in
14 saying that you would like to say a few words before we
15 begin?
- 16 A. Yes.
- 17 Q. And you have sought is the permission of the Chair to do
18 so and if you can take it from me that he has granted
19 that permission.
- 20 A. Thank you. It's very brief, but I would just like to
21 express my profound condolences to Sheku Bayoh's family
22 and friends over his tragic death.
- 23 Q. Thank you very much. For your information, Lady
24 Angiolini, the members of the family are present in the
25 hearing room in Edinburgh today.

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1 Let's begin, first of all, with your report from
2 2017. For those in the room, the reference is
3 SBPI 00496, and this is a report called the Report of
4 Independent Review of Deaths and Serious Incidents in
5 Police Custody by, as you were then, the Rt. Hon. Dame
6 Elish Angiolini and it's dated January 2017.

7 Do you see that on the screen or you have a hard
8 copy I believe in front of you?

9 A. I have a hard copy.

10 Q. Right.

11 A. For some reason, the screen is very small so I'm just
12 going to see if I can do something to make it bigger.
13 I'm trying not to make you all disappear but that's not
14 done it.

15 Q. You may find it easier to simply use the hard copy.

16 A. Okay, that's fine. Thank you.

17 Q. There was then a 2020 report in relation to complaints
18 in Police Scotland and, for those in the room, there was
19 a preliminary report in June 2019, which is SBPI 00499;
20 do you also have that?

21 A. Yes.

22 Q. And --

23 A. Sorry. I don't have the preliminary report with me, but
24 I do have the --

25 Q. Do you have the final report?

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1 A. Yes, I do.

2 Q. November 2020?

3 A. Yes, I have got that.

4 Q. And that is SBPI 0050. And that was an independent
5 review of complaints handling, investigations and
6 misconduct issues in relation to policing. We can see
7 that on the screen in this room, but you have a hard
8 copy also.

9 A. Yes.

10 Q. Right. And then the last report I would like to refer
11 you to, and the most recent, is from February of this
12 year and that was the first part of the
13 Angiolini Report?

14 A. Yes.

15 Q. And we will come on that. Here we see it on the screen
16 and if we can move down the page, it's entitled the
17 Angiolini Inquiry Part 1 Report. My understanding is
18 that there will be a subsequent part which will be
19 published at some point in the future?

20 A. Yes.

21 Q. And for our purposes today, I believe there is a reason
22 why it was called the "Angiolini Report", would you like
23 to share that with us?

24 A. Yes, the family didn't want this to be a memorial to
25 their daughter Sarah Everard, because obviously she

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1 represents in their experience a -- she was a wonderful
2 young woman and this report was not to be a memorial to
3 her and, likewise, it wasn't consider it appropriate to
4 call it after Wayne Couzens, because I think that would
5 just plead to his somewhat warped ego so it was named
6 after me.

7 Q. Thank you. Looking at these reports and we will come on
8 to them in turn, but are these reports essentially the
9 product of your research, the product of evidence that
10 you've gathered in over a number of years or months,
11 your findings, reflections and conclusions in relation
12 to these matters that you were asked to review?

13 A. Yes.

14 Q. And have you endeavored in preparing these reports to
15 make them as accurate and truthful as you can make them?

16 A. Yes.

17 Q. Thank you. I would like to begin with the 2017 report
18 if I may and this is the Deaths and Serious Incidents in
19 Police Custody?

20 A. Yes.

21 Q. Now, this review looked at major issues around deaths
22 and serious incidents in police custody and we can see
23 that paragraph 2. Now, for those behind me, they will
24 see in each report that each page is numbered at the
25 bottom on the right-hand side. Because we have a copy

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1 on the screen, there is also a separate PDF page number.
2 So the executive summary is on page 7 of the actual
3 report, but it's also on, I think, PDF page 9 and it's
4 paragraph 2 that sets out in the executive summary the
5 background; do you have that?

6 A. Yes.

7 Q. Thank you. So we see here on the screen the executive
8 summary that:

9 "On 23 July 2015 the then Home Secretary,
10 the Rt. Hon Theresa May MP announced a major review into
11 deaths and serious incidents in police custody.

12 "2. The review has looked at the major issues
13 surrounding deaths and serious incidents in police
14 custody."

15 And can you tell us a little about why this review
16 was instructed and announced by Theresa May?

17 A. Theresa May when she had her initial discussion with me
18 and why she wasn't this looked at was that she was very
19 concerned as Home Secretary about the number of deaths
20 in police custody and also of young black men dying in
21 police custody as well. There were a number of -- she
22 had met the families of these men and was very concerned
23 about it to the extent that she wanted a full and
24 thorough investigation into the circumstances and asked
25 me if I would be willing to carry that out.

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1 Q. And we see that this was announced on 23 July 2015.
2 When did you actually start working on the review, was
3 it that year or was it later than that?

4 A. I think it was as soon as -- basically, as soon as.
5 I had to obviously put together a team and a make
6 arrangements, you know, for the giving of evidence et
7 cetera so that it would have not -- and then carry out
8 research.

9 Before we actually got going we had to look at, you
10 know, what was available, what research was available,
11 and any information that was of use before we actually
12 started considering what the evidence would be. So
13 there was a sort of what might look like a fallow period
14 in preparation for it, but I can't remember the date now
15 when we actually got going, but I think it was fairly
16 brisk.

17 Q. So sometime in 2015?

18 A. I would think so, yes.

19 Q. We're obviously interested primarily in events that took
20 place in May of 2015. Would it be fair to say that you
21 started work on your report within a short period of
22 being -- the announcement being made?

23 A. Yes.

24 Q. Thank you. And that was July 2015. Could we look,
25 please, at page 22 of the report, so this as I

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1 understand it will be PDF page 24 and I'm interested in
2 paragraph 1.11, the terms of reference?

3 A. Yes.

4 Q. And it said:

5 "The review has three principal aims:

6 "To examine the procedures and processes surrounding
7 deaths and serious incidents in police custody,
8 including the lead up to such incidents, the immediate
9 aftermath, through to the conclusion of official
10 investigations. It should consider the extent to which
11 ethnicity is a factor in such incidents. The review
12 should include a particular focus on family involvement
13 and their support experience at all stages."

14 And then:

15 "To examine and identify the reasons and obstacles
16 as to why the current investigation system has fallen
17 short of many families' needs and expectations, with
18 particular reference to the importance of accountability
19 of those involved in sustained learning following such
20 incidents."

21 And finally:

22 "To identify areas for improvement and develop
23 recommendations seeking to ensure appropriate, humane
24 institutional treatment when such incidents,
25 particularly deaths in or following detention in police

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1 custody, occur. Recommendations should consider the
2 safety and welfare of all those in the police custody
3 environment, including detainees [and others]. The aim
4 should be to enhance the safety of the police custody
5 setting for all."

6 And those terms of reference really essentially
7 encapsulate the aim and what you were tasked to do by
8 Theresa May?

9 A. Yes.

10 Q. And we note that in the terms of reference there's no
11 specific jurisdiction that is given to you, but my
12 understanding is that largely the recommendations were
13 focused towards institutions in England and Wales?

14 A. Yes, it was, yes.

15 Q. And I wonder if you could give us your thoughts.
16 Obviously, you are a Scottish lawyer, you have been a
17 former prosecutor, you have been the head of the
18 criminal justice system in Scotland in your role as
19 Lord Advocate, and you are the author of this report.
20 And I'm interested in your thoughts on whether you think
21 this report does contain relevant and useful information
22 that may assist the Chair in considering the issues that
23 are part of the terms of reference of this Inquiry?

24 A. Well, I would hope so very much. I think it's quite
25 central to the circumstances here which, in this tragic

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1 death, mirror similar circumstances which are referred
2 to in this, again particularly regarding the use of
3 prone restraint and the dangers of that and the
4 associated behaviours of police officers in the context
5 of these particular situations so I think probably of
6 direct relevance to it.

7 Q. And also you do make a number of comments which we'll
8 come on to regarding families and their treatment?

9 A. Yes.

10 Q. And that presumably is non-jurisdictional in the sense
11 that families can be treated in these ways regardless of
12 where they live in the country?

13 A. Yes, exactly.

14 Q. Thank you. Could we look at the section on legal
15 framework, which is page 25 of the report and page 27 on
16 the PDF and I'm interested in paragraph 1.25.

17 A. Yes.

18 Q. And do we see that in fact the legal framework mentions
19 the European Convention on Human Rights?

20 A. Yes.

21 Q. And also mentions the Human Rights Act 1998, which
22 covers the UK, not just England and Wales.

23 A. Yes, that's right.

24 Q. And you've made specific reference and you have specific
25 regard to rights under Article 2 of the Convention which

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- 1 we've heard some evidence about in this Inquiry.
- 2 A. Yes.
- 3 Q. And is it correct to say, Lady Angiolini, that in that
4 regard, in relation to the Convention On Human Rights
5 and Article 2 and the Human Rights Act that those are
6 applicable UK-wide and not simply in England and Wales?
- 7 A. Absolutely, yes.
- 8 Q. Thank you. Can we move on, please, to look at page 26
9 and this will be PDF 28 and I'm interested in paragraph
10 1.32.
- 11 A. Yes, got that.
- 12 Q. And this notes "Trends in deaths in police custody and
13 suicides following police custody" and this is where at
14 paragraph 1.32 you mention the IPCC statistics and are
15 they from England and Wales?
- 16 A. Yes.
- 17 Q. And there were 17 and 14 deaths in or following police
18 custody in England and Wales in the years 2014/15 and
19 2015/16 respectively?
- 20 A. Yes.
- 21 Q. And those are years from which you sought data as part
22 of the basis for your report; is that correct?
- 23 A. Yes, that's right.
- 24 Q. Thank you. And can we move on, please, to page 28 and
25 this would be 30 on the PDF. I'm interested in your

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1 summary at paragraph 1.4.

2 A. Yes. Yes, got that.

3 Q. "Every death in police custody is a tragedy, but it
4 would be misleading to conclude that every such death
5 can be avoided. Sometimes, despite the best efforts of
6 everybody involved, people will die no matter where they
7 happen to be at the time of death."

8 1.41:

9 "However, where there are similar failings that are
10 repeated over many years, and the same patterns reveal
11 themselves time [and again], it is evident that much
12 more can be done to prevent these deaths from
13 occurring."

14 And was that something that you were bearing in mind
15 when you started to gather in all the evidence, that you
16 could see patterns revealing themselves?

17 A. Yes.

18 Q. Right.

19 A. Absolutely.

20 Q. And I think you said of the 17 deaths later in the
21 report, I won't go to that, but of the 17 deaths which
22 took place in the year 2014/2015, I think you said 16 of
23 them also involved elements of intoxication in the part
24 of the deceased?

25 A. Yes, that's right.

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- 1 Q. That in itself was a common theme that you noticed
2 emerging from the statistics?
- 3 A. Yes.
- 4 Q. Thank you. Could we move on to PDF page -- page 32.
5 Actually, we'll just stop the report there. We see that
6 chapter 2 deals with the restraint?
- 7 A. Yes.
- 8 Q. And actually there are a number of chapters that you
9 deal with in your report which are highlighted and which
10 really cover topics that you've said may assist
11 the Chair when he comes to consider matters further?
- 12 A. Yes.
- 13 Q. And would this be one of them, chapter 2 on restraint?
- 14 A. Yes, I would hope so.
- 15 Q. Yes. And if we could look at page 37, please. And
16 again, this is part of chapter 2. If we can move down
17 the page to paragraph 2.30, this is "length of prone
18 restraint" and I think you mentioned a moment ago that
19 you thought prone restraint may also be something of
20 direct relevance when the Chair comes to consider his
21 views?
- 22 A. Yes.
- 23 Q. And then page 39 -- sorry, page 38, you've also covered
24 the topic of excited delirium and acute behavioural
25 disturbance.

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1 A. Yes.

2 Q. You deal with the issue of struggle and restraint on
3 page 40.

4 A. Yes.

5 Q. And then at page 49 -- sorry, page 47, PDF page 49, you
6 end each chapter within this report with a highlighted
7 section called "Recommendations".

8 A. Yes.

9 Q. And is this a distillation of your findings and
10 conclusions in relation to each chapter?

11 A. Yes.

12 Q. Now, you've said in the recommendation on this page,
13 page 47:

14 "Police practice must recognise that all restraint
15 can cause death. Recognition must be given to the wider
16 dangers posed by restraining someone in a heightened
17 physical and mental state, where the system can become
18 rapidly and fatally overloaded. Position is not always
19 the underage feature as greater danger can arise from
20 the struggle against restraint as the restraint itself."

21 And that's just the first of a number of
22 recommendations that you've given there, but I wonder if
23 you could tell us what your thoughts were in relation to
24 restraint and the issues and themes that arose out of
25 your consideration of that topic?

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1 A. It was obvious from the evidence in relation to the
2 number of deaths that we looked at and the reports from
3 coroners elsewhere that the -- any form of restraint, as
4 soon as you engage in the physicality of that, where
5 people are sometimes suffering from -- may be suffering
6 from mental health disorder or they may be intoxicated
7 or they may have drugs whatever, immediately there is a
8 vulnerable situation they have. And so many of these
9 deaths related to prone restraint, which in itself is
10 just incredibly dangerous and it's not just about the
11 length of the restraint.

12 As soon as someone is in a prone position, even if
13 you don't have police officers either kneeling or
14 pressing down on you in any way, the fact that you're
15 actually lying on a hard surface means your ribcage is
16 against that hard surface and there is an inability for
17 you to extend and contract your ribcage against that
18 surface. Immediately, you're in a position of real
19 vulnerable and peril. If you then apply any pressure of
20 any description to that then there is a real risk of
21 death. So it's essentially a very dangerous process and
22 that's what I was trying to alert the police to here
23 that the -- the adrenaline and whatever of a chase or
24 whatever take place has to be put to the side in order
25 that -- and training has to be aimed at much more

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1 effective ways of calming people down, which is
2 de-escalation, calming techniques, discussion. So not
3 physically interfering with someone until or unless it's
4 absolutely necessary in the interests of their life, if
5 they're on a cliff edge or whatever or there were other
6 circumstances which made it impossible. Then this type
7 of restraint is something which should have alarm bells
8 all over, basically.

9 Q. Did you have a view at this time about the levels of
10 awareness and recognition within the police in England
11 and Wales about the level of seriousness of restraint
12 per se; you describe it as peril?

13 A. No, I don't think they were. And again, if you look --
14 if you watch television dramas, if you watch any of
15 these programs which are reality programs about police,
16 they're always chasing someone and someone is pulled to
17 the ground, very often in a tackle whatever, but what
18 police officers aren't aware of is that as soon as
19 they're in that position, then they need to -- if they
20 are lying down prone, then they need to be in a
21 different position altogether or if they are
22 unconscious, they need to get them into the recovery
23 position obviously.

24 But it didn't -- I don't think police officers were
25 as aware -- I don't think the public were as aware, I

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1 certainly wasn't before I started doing this, just how
2 dangerous this was so it's coming into this Inquiry that
3 I spoke to the physicians the understood the physiology
4 of it that certainly -- and realised just how dangerous
5 this was.

6 Q. Thank you. And you have mentioned the importance of
7 de-escalation?

8 A. Yes.

9 Q. And we've heard some evidence about de-escalation and
10 how that can be attempted prior to any use of force such
11 as restraint?

12 A. Yes.

13 Q. Again, did you feel there was a recognition of the need
14 and the importance of attempting de-escalation amongst
15 police?

16 A. I didn't think so at that time and I think and
17 understand it has changed since, although I haven't
18 carried out an inquiry to follow up now -- what's the
19 situation now. But I think there is a better
20 understanding of basic psychology. If someone is in a
21 state of alarm and someone is agitated through alcohol
22 or whatever that calming soothing techniques from a
23 distance, so the person doesn't feel jeopardised if it's
24 safe, to try to soothe someone, to try and calm them
25 down using basic psychology is much more effective than

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1 people steaming into a situation where they put their
2 own lives at risk as well, because they don't know what
3 they're going into, by engaging in that.

4 And I think that policing now more than ever has
5 taken that on board and are now engaging much more in
6 trying to improve communication skills, listening
7 skills, methods of trying to soothe people who are in an
8 agitated or distressed state.

9 Q. And you use the phrase "much more effective", did you
10 form an impression as to the effectiveness then on
11 de-escalation techniques, if they were attempted?

12 A. Yes, I think -- I'm not sure if we refer to them, but we
13 did -- I spoke to a number of groups of police officers
14 in the course of it and as well as speaking to experts
15 from other states and of course it's different because
16 it's different in some circumstances. You look at the
17 States, it's difficult to compare, we're not comparing
18 like with like, because they have guns so in a sense the
19 guns are may be displayed et cetera and that -- it
20 doesn't have the same effect of calming someone down,
21 but it may engage someone's attention in those
22 circumstances.

23 I am not for a minute advocating that we should
24 police officers with guns. I think that would be a
25 disaster to policing here, because I do think policing

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1 by consent is what we're proud of in this country and I
2 do think it works, but it does require good skills of
3 communication and not all of that comes when you're 17
4 and you have been recruited into the police where you
5 have a lot to learn at that age but a lot -- we have
6 just had a recruitment of police officers in England and
7 Wales, ten thousand new police officers, and many of
8 them are 16, 17, 18 so there's a lot of maturity that
9 has to take place to understand the psychology of
10 distress and other people's anger and ways of
11 de-escalating that.

12 Q. Thank you. I think in the report you go on to actually
13 deal with a number of matters that you have mentioned,
14 intoxication and mental health, and I think intoxication
15 you deal with in chapter 3 and you make some comments
16 about the training on intoxication. We've heard some
17 evidence about intoxication.

18 What were your views about the training required,
19 because for many witnesses I think there's a sense they
20 understand intoxication, officers who are in a response
21 team at the weekend will often come across examples of
22 intoxication? What were your views about training being
23 given to officers at that time?

24 A. I have to say I can't remember what I said about that at
25 this stage, if there's a paragraph where I refer to it.

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1 Q. There's a paragraph on training in intoxication at page
2 59, 3.36.

3 A. Yes.

4 Q. And then at your recommendation section at page 61, you
5 say:

6 "Comprehensive and standardised mandatory police
7 training is required across forces."

8 A. Yes, yes, I think --

9 Q. And that's on intoxication. That's in the intoxication
10 chapter.

11 A. Yes, I think what was clear from this was that a number
12 of police officers they only learn to deal with
13 intoxication through experience of going out there and
14 dealing with it and of course intoxication it manifests
15 itself physically in so many different ways. Some
16 people become very pleasant in certain stages of
17 intoxication, others become morose, others become
18 agitated with alcohol as well, because alcohol affects
19 people in different ways. But one of the aspects about
20 it is someone who's significantly intoxicated is
21 actually in a state of frailty, physical vulnerability,
22 as a result of that, particularly again affecting
23 breathing and again aggravating the situation of prone
24 restraint.

25 Further, if someone has either drugs or alcohol in

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1 their system, then it's again something which police
2 officers I don't think -- at that time it wasn't
3 particularly evident that they were being given very
4 explicit training at the beginning of their career
5 rather than having to acquire that knowledge after maybe
6 20 years of being in the police service.

7 Q. Remaining on page 59, the training on intoxication
8 section, we notice in the latter half of the
9 bulletpoints mentioned at 3.36 you describe insufficient
10 training and awareness by officers of the dangers of
11 intoxication?

12 A. Yes.

13 Q. "Of failure to recognise..."

14 3.36 there it is:

15 "Failure to recognise that alcohol withdrawal
16 symptom can be life threatening.

17 "Failure to recognise decreased levels of
18 consciousness and dangers associated with deterioration
19 in consciousness.

20 "Failure to recognise the risk of positional or
21 postural asphyxia where reduced consciousness may
22 obstruct the airway and the danger of obstruction of the
23 airway by tongue or vomit."

24 A. Yes.

25 Q. And we've heard some evidence here in connection with

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1 the need for officers to recognise that things may be a
2 medical emergency?

3 A. Exactly.

4 Q. Even if it simply is intoxication through drink or
5 drugs?

6 A. Hm-hmm.

7 Q. And was this a theme that you noticed, a sort of failure
8 to be aware or recognise those things and the need for
9 training?

10 A. Yes, I think police officers at the time were fairly
11 sort of nauseated that a lot of their job was dealing
12 with drunk people. If you look at city centres at
13 night, nightclubs, young people coming out, some of them
14 in really dangerous stages of intoxication, sometimes
15 also mixed with drugs as well, and therefore them
16 falling asleep, you know, and, you know, if they sit
17 down and fall asleep and fall over, et cetera, the
18 dangers of that in terms of their life, apart from their
19 vulnerability to other things which might happen,
20 I don't think -- I still think that some of the
21 attitudes that I saw at the time were that they were
22 just being viewed as a pest.

23 Having said that, other officers were and if you
24 ever visited an accident and emergency department on a
25 Friday evening or Saturday evening in particular you

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1 would find a significant number of -- sorry, my earpiece
2 has just come out -- a significant number of police
3 officers escorting patients into the A&E and, again,
4 because they did recognise that the individuals were in
5 dangerous states of intoxication and/or had incurred
6 some injury or physical injury as a result of where they
7 found them. So I think that they acquire that through
8 experience, but coming in it's not something which I
9 think is appreciated by -- I still think significantly a
10 proportion of the population don't realise just how
11 dangerous severe intoxication can be in terms of your
12 possibility of inducing death.

13 Q. Thank you. And then if we can move on to chapter 4 of
14 your report, we see at page 63 that you deal with mental
15 health.

16 A. Yes.

17 Q. And the introduction to this chapter says:

18 "The issue of mental ill health manifests itself
19 time and again within the police custody context.
20 Frequently, police officers find themselves as the first
21 point of emergency contacted for those suffering from
22 mental ill health. The first instinct of most members
23 of the public witnessing such an episode is usually to
24 call the police to deal with the individual because of
25 the disturbed or disorderly nature of their behaviour.

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1 Even families may call the police rather than
2 an ambulance where they consider their loved one's
3 behaviour may results in injury or danger and is beyond
4 their ability to cope.

5 "Certain characteristics commonly feature in cases
6 of death involving mental ill health in the police
7 custody context. These include the ability of officers
8 to recognise and interpret symptoms of mental ill
9 health, rather than attributing disturbed behaviour to
10 drunkenness or drug abuse."

11 I'm interested in your reference here to certain
12 characteristics commonly feature, was this something
13 that you recognised in this chapter?

14 A. Yes.

15 Q. And what common features in relation to deaths in
16 custody or deaths following police contact did you
17 observe?

18 A. Well, there were a range of deaths which I had looked at
19 in England in custody and certainly I think that the
20 combination of alcohol and mental ill health very often
21 mask the extent of the mental illness and could be
22 attributed, particularly if it's not particularly
23 experienced officers, although the bar officers in
24 police stations are supposed to be experienced, either
25 sergeants or police constables, who can recognise the

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1 dangers.

2 I think I say in another report, I don't think it's
3 in this particular report, really when someone is in a
4 state of severe intoxication they shouldn't be going to
5 a police cell, it really is a hospital. The difficulty
6 is our hospitals, the A&E departments are not designed
7 to cope with the concomitant behaviours of people who
8 are in those conditions who may be loud, intoxicated and
9 frighten other patients who are in there and feel very
10 vulnerable because of the presence of someone who is
11 entirely intoxicated. And I did suggest that we need to
12 look at the design of A&E departments where intoxication
13 is a feature and behavioural issues as well that they
14 might want to have soothing places where these people
15 can be until they're seen by a physician.

16 And if you combine also that with mental health
17 problems, then again sitting in an A&E for sometimes,
18 you know, one, two hours with other patients around is
19 not helpful to either the patient or to the other
20 patients who are present at that stage.

21 Q. And if we can turn to page 79 of your report, which is
22 the recommendation section, again there are a number
23 here, but do we see that you've recommended:

24 "Commitment and responsibility at leadership level
25 is needed across police forces to ensure prioritisation

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1 of the issue of mental and to bring about sustained
2 [change].

3 "Police recruitment and training should incorporate
4 the different personal skills and experiences needed to
5 fulfill duties relating to the needs of highly
6 vulnerable groups, including empathy, communication
7 skills and the ability to employ de-escalation
8 techniques."

9 And did you consider that de-escalation techniques
10 were particularly useful and helpful in a situation
11 where the officers were dealing with someone with mental
12 health issues?

13 A. Absolutely, and it keeps everybody safe. It's in the
14 interest of the officers to be able to communicate in
15 this way and to be able to display empathy, to calm and
16 to soothe a situation, as opposed to physical encounters
17 which bring danger for everyone.

18 And a good example of that in operation is in
19 New Zealand where the New Zealand police force are
20 trained very much on the basis of communication.
21 They're very well respected within the population for
22 their use of basic psychology and not engaging in the
23 physicality, which is when the adrenaline is high or
24 you're frightened or nervous or there's excitement that
25 there's a temptation to resort to in the context of

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1 arrests or restraint. And therefore, I think there's
2 undoubtedly a lot that we can learn from looking at
3 other examples of different skills.

4 And I think that's why when I hear that there's a
5 lot of young people being recruited into the police it
6 makes me worried, because at the age of 16, 17 I would
7 not like to be dealing with, you know, a 53-year-old
8 person who is very drunk et cetera not having maybe the
9 experience or skills or knowledge of mental health at
10 that stage, because you don't have experience of life as
11 much at that point, whereas again in New Zealand the
12 police force recruit people from an older age group,
13 again, where those types of techniques of communication
14 and soothing come more naturally, because they have been
15 acquired through the passage of time.

16 Q. And was it your view that an increase or an enhanced use
17 in training in de-escalation and communication
18 techniques would be a way to avoid the use of force?

19 A. Yes, yes.

20 Q. And if officers avoid using force in the first place,
21 was it your view that people would be safer?

22 A. Everyone would be safer, including the police officers,
23 but particularly those who they arrest, because it is,
24 you know, an arrest is in any other context an assault,
25 you are laying hands on people in those stages. So that

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1 event happening to anyone is a jolt or an unpleasant
2 situation for them and so however they react relates to
3 the physicality of it and, therefore, the less of that
4 there is, the more opportunity -- it takes more time, a
5 bit more patience.

6 You know from the police view, oh, I can't, I'm not
7 a social worker, I can't sit around here for 10,
8 15 minutes talking to this guy, we have other problems,
9 we've got to just get on with it, but that's at a high
10 premium and it comes at a premium of the dangers it
11 creates for everyone.

12 Q. And when you say a "high premium and the danger it
13 creates" is that in the case of a restraint, the risk of
14 death?

15 A. Yes, absolutely.

16 Q. And we see at the end of the bulletpoint we were just
17 looking at you say:

18 "This should be embedded in the police appraisal
19 process with assessment made on the correct use of force
20 and, in particular, where officers have been able to
21 avoid the use of force."

22 So again, is this a recommendation about trying to
23 avoid the use of force?

24 A. Yes, it's about how you have role models in the police
25 who are looked at because of their ability to deal in

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1 this way well with members of the public and actually
2 championing that as a competence in policing, which is
3 seen as being very desirable in terms of progression and
4 your ability to police well.

5 Whereas there is still if you go to police colleges,
6 again, the physical aspects of it are necessary, but,
7 again, the extent to which the psychological aspects are
8 emphasised and taught and learned from older
9 colleagues -- I don't know if it's changed since I have
10 done these reports, I hope it has, and I think it would
11 be interesting to see whether or not that has changed in
12 policing today.

13 Q. And that would be using the skills and championing the
14 skills of officers of any gender or age or length of
15 service who had particularly good communication skills?

16 A. Yes, absolutely.

17 Q. And then do we see that you also recommend there should
18 be consistent national police policy and guidance
19 encompassing current learning and best operational
20 practice reflecting the need for a drastically improved
21 policing approach to those in mental health need?

22 A. Yes.

23 Q. And if we can move on now, please, to ethnicity which is
24 at chapter 5, which begins at page 83.

25 A. Yes, I have it.

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1 Q. Now, when we looked at terms of reference a short time
2 ago, the word "ethnicity" was the term that was used
3 within the terms of reference that you were given?

4 A. Yes.

5 Q. And the review required you to consider the extent to
6 which ethnicity was a factor in deaths in custody?

7 A. Hm-hmm.

8 Q. And serious incidents involving the police?

9 A. Yes.

10 Q. And you have this chapter 5 entitled "Ethnicity"?

11 A. Yes.

12 Q. Now, this Inquiry's terms of reference require the Chair
13 to consider matters relating to the race of Mr Bayoh or
14 his perceived race. We've heard evidence last week from
15 a Professor Meer that the words "race and ethnicity" may
16 be used interchangeably. And from my reading of your
17 report, Lady Angiolini, it would appear that that is the
18 approach you may have taken in this report, but when
19 the Chair is actually reading through the terms of your
20 report, would it be permissible and acceptable to you
21 that he could treat those words as interchangeable or
22 was there some sort of precise definition that you used
23 in relation to ethnicity that may be distinct in any
24 way?

25 A. No. Obviously, they do have slightly meanings, but I

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1 use them interchangeably, whether or not that was
2 correct or not, but understood that, you know -- we talk
3 about race, but the reality is we are all the one race,
4 you know, the human race, we're all identical in terms
5 of our make up so, there is only one race, but there are
6 then regional continental differences in terms of the
7 physical and behavioural differences from one to another
8 and customs, et cetera.

9 The ethnicity is I suppose where people think that
10 has a higher emphasis on social and cultural
11 characteristics of people, including their religion,
12 beliefs, et cetera or customs, food, et cetera. So I
13 think -- and I read the expert's evidence regarding
14 this, but I think that one of my concerns regarding the
15 nomenclature and what we call people here is that there
16 was a time at which we were quite fraught about what
17 should be said and people can be very insecure in these
18 circumstances.

19 Fundamentally, we can look at all of the definitions
20 and the right structures, but what has to be there is
21 compassion and love. And that sounds a bit queazy word
22 to use in the context of a report, but it is about
23 compassion and respect and love for each other and I
24 think that that's -- all of that is much more important
25 than having the technical term which sometimes can

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1 change from one decade to another according to whatever
2 is coming out of academia as well. So I think that
3 that's why, you know, when I look at this chapter as
4 well that usually important to have a look at the terms,
5 but when I look back at it now, I see I used it
6 interchangeably.

7 Q. That's very helpful. Thank you. We have certainly
8 heard evidence from Professor Meer that they can be used
9 interchangeably, but as he has agreed with you, as I
10 understand it, that there are some subtle distinctions
11 between the words and we are aware the definition of
12 "race" in the 2010 Act includes ethnicity?

13 A. Yes.

14 Q. I would like to go through some of this chapter with you
15 if I may. Could we begin with paragraph 5.1:

16 "The 1999 Macpherson Report into the death of
17 Stephen Lawrence was a watershed moment in the history
18 of the police and race relations. Its authors, Sir Iain
19 Macpherson, included in the report an extract of a
20 submission by Dr Robin Oakley on the nature of the
21 dynamics in operation in the policing of ethnic minority
22 communities -- a relationship which has been a fruitful
23 source of tension and misunderstanding over many years."

24 And you have given a quotation here:

25 "For the police service, however, there is an

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1 additional dimension which arises from the nature of the
2 policing role. Police work, unlike most other
3 professional activities, has the capacity to bring
4 officers into contact with a skewed cross-section of
5 society, with the well-recognised potential for
6 producing negative stereotypes of particular groups.
7 Such stereotypes become the common currency of the
8 police occupational culture. If the predominantly white
9 staff of the police organisation have their experience
10 of visible minorities largely restricted to interactions
11 with such groups, then negative racial stereotypes will
12 tend to develop accordingly."

13 I'm interested in your thoughts about this comment
14 regarding police and their engagement with members of
15 society?

16 A. I think now we are -- I think we're probably more
17 cosmopolitan. People are traveling now more abroad to
18 many countries. Even since then, there's a much greater
19 movement of people abroad into different ethnicities and
20 we're feeling more comfortable about that, but I do
21 think if basically the only representatives of a
22 community deal they deal with are those who are the ones
23 that are getting into trouble then that will skew your
24 view, because if you don't have friends from this area,
25 if you're not going out to eat, if you are not meeting.

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1 And therefore, you can talk about training, but it's
2 also really important that during the course of the life
3 that -- and I think that was one of the great things we
4 did.

5 When I was Solicitor General I had the role of
6 leading on diversity at that stage and I went out round
7 various mosques and temples and other religious centres
8 and also meeting communities and got invited to a number
9 of different weddings, made friends with these people
10 who are still very good friends, but through that
11 process which I hadn't had in my experience, because
12 Scotland didn't have a particularly high minority
13 community compared to England and Wales which is much
14 more cosmopolitan. It was a fantastic experience and
15 you are seeing that whole rounded nature of that
16 community and I think that's really an important part
17 for police as well is that their own exposures, not to
18 those who they're investigating for crimes, but to the
19 wider communities as well, because I think that makes a
20 tremendous difference to the way people see each other.

21 Q. And do you see -- did you see the value of that
22 engagement with the community and members of the black
23 or ethnic minority communities, do you see the value of
24 that in policing and the work they do?

25 A. Absolutely, it's really important, it's really important

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1 that that's done and it helps breakdown barriers and I
2 think there's not enough emphasis on it. And of course
3 due constancy, well, times are very hard, you know, and
4 a lot of people think that this is a sort of fluffy side
5 of policing. It's not. It's absolutely critical to
6 success in engaging with communities.

7 Q. Thank you. Could we move on to paragraph 5.7, page 85
8 of your report.

9 A. Yes.

10 Q. You've noted here:

11 "Institutional racism identified in the
12 Macpherson report still appears to be an issue within
13 the police service. This was alluded to by Theresa May
14 on becoming Prime Minister when she said:

15 "'If you're Black, you're treated more harshly by
16 the criminal justice than if you're white.'"

17 And was that the position as you understood it in
18 2007 when you prepared your report?

19 A. Yes, in England and Wales. I would say, again, the
20 reality of Scotland, going back to that time, was again
21 you saw very, very few members of ethnic communities
22 coming into the courts as accused. Later on, towards
23 the end, there were more coming in, but certainly it was
24 very rare to see them in as anything other than
25 witnesses.

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1 Q. And then 5.8:

2 "Inevitably any death involving a black and ethnic
3 minority victim who died following the use of force has
4 the capacity to provoke community disquiet leading to a
5 lack of public confidence and trust in the justice
6 system. This can be exacerbated if people are not seen
7 to be held to account or if the misconduct process is
8 opaque. There is a wider social and political context
9 in which such deaths have occurred, often involving
10 misinformation in the media about the deceased and their
11 family, and the fact that despite Inquest verdicts of
12 unlawful or excessive force, the authorities rarely
13 appear to be held to account."

14 There's a number of points you make here in this
15 paragraph. The disquiet, first of all, leading to a
16 lack of public confidence and trust, was that a theme
17 that you saw emerging from your researches in this area?

18 A. The -- what this brought back is that very often if
19 there had been a death, the police would be very quick
20 to go to the press regarding it, and so the account
21 immediately fed into the psyche of the public an account
22 which was detrimental to the deceased in these cases.
23 And those were appalling circumstances and it also was
24 reflected in the way in which the next of kin were dealt
25 with in these cases, where the normal treatment of, you

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1 know, if you had a murder or whatever, the normal
2 treatment the families would be given was not being
3 given to the families of those who died in custody or in
4 the course of restraint.

5 And so I think, undoubtedly, there was -- there was
6 a skewed view of the individual who was the deceased at
7 the very beginning and I think I commented on it maybe
8 in this report that, you know, the police should not be
9 putting anything out regarding these matters at that
10 stage, it wasn't appropriate. I'm not sure whether that
11 was in this report or another.

12 Q. We will come on to issues regarding the media, yes.

13 A. Yes.

14 Q. And you talk there about despite Inquest verdicts of
15 unlawful or excessive force, the authorities rarely
16 appear to be held to account and was that a theme that
17 emerged?

18 A. You would have the decision at the end of the Inquest
19 and then very little coverage of it, very often, again
20 in the press and, again, no systematic dismissals, et
21 cetera, regarding these. There was certainly a very
22 much more defensive -- and of course police as employers
23 have a duty to support and look after the welfare of
24 their staff, but, again, as the current Commissioner of
25 Police in London has said he wants "the baduns out" and

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1 he said he has no interest in keeping people and so he
2 takes a completely different view of this from what I
3 think sometimes in the past was a bit more defensive.

4 Q. And we've heard some evidence about defensiveness and
5 concerns that in relation to conduct issues that the
6 police are conducting those or failing to conduct
7 conduct proceedings and there may in some quarters be a
8 perception of defensiveness; was that something that you
9 saw in your researches down south?

10 A. Yes, and if you look at the outcome from most of these
11 deaths, I mean there were several of them that we looked
12 at and it didn't seem incredibly proactive thereafter
13 about the lessons learned et cetera. Again, the one
14 thing I do want to say though is we can -- we're looking
15 at this from the sense of a textbook, you know, this
16 book is talking about it.

17 I think, again in fairness to police officers,
18 I don't think very often it's easy for us to begin to
19 put ourselves in their shoes and their perception as to
20 what's happening. The only time that's ever happened,
21 I've got close to it, was because of body-worn cameras
22 which I think are a great development and I think
23 they're significant in terms of probably saving lives on
24 the part of the police officers and those whom they
25 arrest. But the one I saw was police officers who were

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1 raiding a flat and if you read the report about it, it
2 all sounded fairly brutal, but then the body-worn
3 cameras were then -- and the witness was spectacularly
4 unimpressive in the way he gave evidence, but then his
5 body-worn video was shown of him going along this wall
6 towards this house and as he gets to the door, the door
7 opens slightly and a gun comes out literally about, you
8 know, two feet from where he is at that stage. So it
9 was incredible when you actually see the impact of that,
10 but I think that, generally speaking, the post-act
11 examination by the police as to what happened -- how we
12 can avoid this in the future wasn't at that time, and I
13 can't speak about what's happening now, obviously, at
14 this stage, at that stage, as brisk and as objective
15 thorough as it should have been.

16 Q. Thank you. Now, I think as part of this chapter, and
17 I don't intend to go through this with you in detail,
18 you have referred to a number of inquests and other
19 deaths which you've made mention of, such as in 5.9 you
20 mention restraint-related deaths following police
21 contact of Roger Sylvester and Sean Rigg.

22 A. Yes.

23 Q. And they highlight issues that you've looked at as part
24 of this chapter of your report.

25 A. Yes.

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1 Q. I won't ask you to go through those in detail. We've
2 heard some evidence of these and we can -- the Chair can
3 read this in due course.

4 Could I turn, please, to paragraph 5.18 which is on
5 page 87.

6 A. Yes.

7 Q. You've talked here about stereotypical assumptions:

8 "The stereotyping of young Black men as 'dangerous,
9 violent and volatile' is a long-standing trope that is
10 ingrained in the minds of many in our society. People
11 with mental health needs also face the stereotype of the
12 mentally ill as 'mad, bad and dangerous'. There is
13 therefore a particular concern with what INQUEST
14 describes as 'double discrimination' experienced by
15 Black people with mental health issues."

16 Now, we've heard evidence last week from
17 Professor Meer about something called
18 "intersectionality" where a person not simply black, but
19 may also be female or have another protected
20 characteristic, maybe black, maybe disabled. You
21 mention here black people with mental health issues;
22 would this be an example of that intersectionality we've
23 been hearing of?

24 A. Yes.

25 Q. Where the impact of those protected characteristics is

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1 enhanced because two are meeting?

2 A. Yes.

3 Q. Yes?

4 A. Yes.

5 Q. And you also mention here Inquest, which is in block
6 capitals. We've heard of an organisation called Inquest
7 down south and we hope to hear from one of the
8 directors, Deborah Coles --

9 A. Yes.

10 Q. -- as part of this hearing. I understand you're
11 familiar with Deborah Coles. Did she provide some
12 assistance to you as part of this report?

13 A. She did, yes. And she's very experienced in these areas
14 as well so she -- she is an expert in this area I would
15 suggest to you and there will be many other deaths since
16 I worked she will also have continued to accumulate
17 information on.

18 Q. Thank you. Could we look at paragraph 5.21:

19 "There is also concern that assumptions made about
20 someone may lead to the denial of medical care."

21 So these assumptions, these stereotypical
22 assumptions, was it your view that that can have
23 consequences and one of those could be the denial of
24 medical care?

25 A. Yes.

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- 1 Q. You say:
- 2 "Experienced officers may believe they know when
3 someone is faking an illness, but such assumptions can
4 prove fatal."
- 5 And you refer to the death of Christopher Alder.
- 6 A. Yes, that's right. I think that's a very good
7 illustration of that particular circumstances, because,
8 as I described, the officers laughed and joked while he
9 was dying on the floor in the custody suite and they
10 reported that he was faking and died after being left
11 unconscious face down on the floor for 11 minutes.
- 12 Q. So am I right in thinking you considered the
13 circumstances of that case of Christopher -- the death
14 of Christopher Alder.
- 15 A. Yes.
- 16 Q. And the views that he was faking to deny him medical
17 care at a point --
- 18 A. Yes.
- 19 Q. -- where he clearly needed that medical care.
- 20 A. Yes, yes.
- 21 Q. Yes.
- 22 A. And as it says at the bottom the death rattles in his
23 breath were also clearly heard on the video as well, so
24 it was a real tragedy.
- 25 Q. Thank you. And I think if we could look at your end

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1 section, page 93, where you talk about the
2 recommendations, page 93, which will be 95 of the PDF,
3 there we are, and you talk about the IPCC. Who are the
4 IPCC? Is that the equivalent of PIRC in Scotland?

5 A. Yes, exactly.

6 Q. Thank you.

7 A. I'm trying to think what the acronym stands for now. I
8 should know but ...

9 Q. As long as I know that they're the equivalent, the
10 English equivalent of PIRC.

11 A. Yes.

12 Q. "[They] should ensure that race and discrimination
13 issues are considered as an integral part of its work.
14 This should be monitored and fed into internal learning
15 and the IPCC's watchdog role.

16 "IPCC investigators should consider if
17 discriminatory attitudes have played a part in
18 restraint-related deaths in all cases where restraint,
19 ethnicity and mental health play a part and that would
20 be in line with the IPCC discrimination guidelines."

21 A. Yes.

22 Q. "As a systematic approach should be adopted across the
23 organisation and they should address discrimination
24 issues robustly within misconduct recommendations,
25 including where discrimination is not overt but can be

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1 inferred from the evidence in that specific case."

2 I'm interested in your views in relation to this,
3 that as I understand these recommendations, you take the
4 view that race and discrimination issues should be
5 integral to the work of what in Scotland would be the
6 PIRC?

7 A. Yes.

8 Q. They should be considering --

9 A. Yes.

10 Q. -- if discriminatory attitudes have played a part in
11 restraint-related deaths.

12 A. Yes.

13 Q. Would it be your view that where race or ethnicity is a
14 factor that the PIRC, as it is in Scotland, should
15 absolutely be considering discriminatory attitudes as
16 part of their investigation?

17 A. Yes, they should.

18 Q. And you also talk here about them addressing
19 discrimination issues "robustly" within misconduct
20 recommendations. We've heard some evidence about the
21 Conduct Regulations that apply in Scotland and have
22 applied since 2014 and I'm interested in your use of the
23 word "robustly" here.

24 Could you explain some of your views about how you
25 feel -- how you viewed conduct or misconduct matters

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1 should be dealt with in a situation where there has been
2 a death in custody and in this particular case of a
3 black man?

4 A. Well, the -- I'm not sure it's in this report or another
5 report. I looked at the way in which the IPCC were
6 investigating these cases and in many respects, at that
7 point, they were not really equipped to deal with death
8 situation, most of what they were getting was complaints
9 about police officers in different scenarios, but when
10 it came the death situation -- so for instance they
11 didn't have a 24 hour call-out so that if there was a
12 death they were going to the scene of the crime or --
13 sorry, not the crime I'm talking about or -- the death,
14 they're not there very often and so they're not what you
15 would describe as a blue light organisation.

16 And therefore so you would have the police at the
17 scene knowing from this particular organisation looking
18 at and ensuring that the locus, as it's called, of the
19 death is being supervised, that there is no interfere
20 with the evidence, et cetera, so it was a very
21 desk-bound perspective of what they did. I think that's
22 changed now. I very much hope it's changed because I
23 haven't been back to see whether or not my
24 recommendation were taken up but they do have that, that
25 independent aspect.

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1 And I talk about elsewhere that the officers
2 similarly who are involved in the matter should be
3 separated and they should be treated as witnesses would
4 be. You wouldn't put witnesses together in a room in a
5 huddle and discussing their evidence. You would
6 normally separate them and take their statements where
7 it's feasible to do so in that manner. And that wasn't
8 happening with police officers in these deaths either.

9 So there wasn't, I don't think, the distance of the
10 investigation in some of these cases that you would see
11 ordinarily in some other form of sudden unexpected
12 death.

13 Q. And I think in fact you do deal with issues relating to
14 misconduct in some detail I think on page 170. We won't
15 need to go to that at the moment, but for the benefit of
16 the Chair in due course, I think you do deal with police
17 misconduct in chapter 13 of this report.

18 A. Yes.

19 Q. And --

20 A. Yes.

21 Q. -- you quote:

22 "There's a very strong perception that police sit
23 above the law and a different set of rules apply to
24 them."

25 Is that what you're saying about there's a

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- 1 perception --
- 2 A. Yes.
- 3 Q. -- that civilians are treated differently from the
4 police?
- 5 A. Yes, yes.
- 6 Q. And in addition to that, you also mentioned conferral
7 there for a moment. I think you specifically deal with
8 that at page 153 of your report. Again, I won't put
9 this on the screen, but -- sorry?
- 10 A. Sorry there's something -- I'm not sure if you can hear
11 the noise of a drill outside.
- 12 Q. No, no, I can't.
- 13 A. But if you can hear interference, let me know and I'll
14 go out and make sure it stops.
- 15 Q. Thank you. I would like to touch on something else that
16 you do mention in your report about evidence gathering.
17 And this will take us away from the chapter on ethnicity
18 for a moment, but if we could look at paragraph 1.10,
19 which deals with ingathering of evidence.
- 20 A. Yes.
- 21 Q. Now, to summarise how evidence was gathered, as I
22 understand your report, you carried out meetings with
23 experts and focus groups.
- 24 A. Yes.
- 25 Q. We don't really need to have that on the screen

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1 actually. I'll simply summarise it. You met with
2 experts in focus groups, with police groups, community
3 groups and NGOs. You carried out a public consultation,
4 you gathered in responses from that, and you spoke to
5 Inquest and provided a report on family listening days
6 with families of the deceased and a reference group was
7 established --

8 A. Yes.

9 Q. -- to study literature and evidence internationally of
10 deaths in police custody.

11 A. Yes.

12 Q. Could you tell the Chair a little more about how you
13 gathered in evidence in relation to deaths in custody?

14 A. Well, I think that paragraph summarises it. There was a
15 combination of individual -- of next of kin from some of
16 these deaths who I would see individually, and others
17 where we got together a group of police officer to have
18 a discussion regarding practices so it would be more of
19 a focus group regarding it, but, again, there were other
20 cases where it would be individual witnesses that we
21 would see as well. And it was very helpful because
22 Deborah Coles had very, very good contacts with policing
23 and around policing, so she knew a way around that so
24 that was very helpful to do that.

25 So it was a mixture of individual witness accounts,

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1 group meetings to discuss some of the issues and
2 problems as well, and it's something which I do -- it's
3 something that tends to take place in a statutory
4 inquiry, but when I was asked about the current inquiry,
5 I asked for it to be nonstatutory because, again, it's
6 very much more flexible and allows you to obtain
7 evidence (a) in private, which helps in particular
8 circumstances where you're talking about police
9 corruption so you don't have the audience present while
10 that's happening and I think it does enhance frankness
11 so deployed that in the context of this particular
12 report and obtained some very frank accounts.

13 Q. And I think if we look at the annexes of your report,
14 annex A deals with the meetings, page 249, annex B deals
15 at 253 with the public consultation and the bodies you
16 spoke to and approached to look for and got responses
17 from.

18 A. Yes.

19 Q. And annex C is the Inquest report of the family
20 listening days.

21 A. That's right.

22 Q. And there's some very detailed summaries of comments
23 I think you put in quotations from members of families
24 who have been through --

25 A. Yes.

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1 Q. -- situations where a member of the family died in
2 police custody.

3 A. Hm-hmm.

4 Q. And --

5 A. That's right.

6 Q. -- were many of these deaths in relation to black men?

7 A. In -- at that time, yes.

8 Q. At that time, yes.

9 A. Yes. Not all of them were. There were also young men
10 with mental health problems as well and one where he was
11 handcuffed in such a way in the back of the van that he
12 asphyxiated because of the positional asphyxiation in
13 the back of the van, the police van. Again so -- so it
14 wasn't -- there were a number of other families. It was
15 a mix, but there were a significant number which were
16 from families of young black men.

17 Q. Thank you. And we were looking at the chapter on
18 ethnicity, chapter 5, and I think we had look at the
19 some of the recommendations. I would like to move on to
20 the fourth bulletpoint so this is on page 93.

21 A. Yes.

22 Q. And it says:

23 "National policing bodies and police forces should
24 implement mandatory training and refresher training on
25 the nature of discrimination, including on race issues,

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1 which aims to confront discriminatory assumptions and
2 stereotypes. Policing bodies should consult with
3 bereaved families on how such training can breakdown
4 barriers and promote change."

5 And if I can stop there for a moment, you were
6 recommending a mandatory training and refresher training
7 on the nature of discrimination?

8 A. Yes.

9 Q. So not simply training for new recruits?

10 A. No.

11 Q. But was that refresher training designed to deal with
12 officers who perhaps have many years of experience?

13 A. Yes.

14 Q. We've heard evidence that for a number of officers they
15 received training at the beginning of their career, but
16 had not at that time in 2015 received further training
17 in equality, diversity issues; was this something that
18 you recognised as an issue?

19 A. Yes, because, you know, so much changes in our
20 understanding and knowledge and we -- I mean this wasn't
21 isolated, because in the Procurator Fiscal Service we
22 sort of, you know, when I went there we would go to some
23 training courses but we sort of learned on the jobs from
24 older fiscals and, therefore, they're influencing your
25 thought patterns as well.

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1 So when I was Solicitor General, I set up college
2 for the training of prosecutors in Glasgow where, again,
3 it was important not just to train people at the
4 beginning of their career, but throughout their career
5 so they continue to acquire more skills and
6 understanding of current practices and of thinking in a
7 variety of areas. So I think that's part of the problem
8 is that those who are out there may be people who
9 haven't had training in these particular areas for some
10 years.

11 Q. And you recommend -- part of that recommendations there
12 is that there should be with bereaved families on how
13 training can breakdown barriers?

14 A. Yes.

15 Q. I'm interested in that comment that bereaved families
16 have a role to play in determining the training or the
17 type of training that officers receive?

18 A. Hm-hmm.

19 Q. Could you tell us more about that, please?

20 A. Well, they were -- there were a group of families that I
21 came across during the course of this who had lost their
22 loved ones and they felt -- it was very interesting,
23 they wanted to help policing because they wanted to
24 ensure that no other lives were lost and they -- so
25 their position wasn't antagonistic, it was about trying

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1 to get better understanding and they were willing to put
2 themselves forward to help and to assist police training
3 in these cases and I think that that's tremendously
4 powerful when I went along to see an example of that and
5 again you could record these, you don't have to have
6 them obviously for every training session, some of it
7 could be recorded, but I think the impact of that is
8 very, very impressive.

9 Q. We've heard some evidence from officers who have had
10 training along the lines of hearing about lived
11 experience --

12 A. Hm-hmm.

13 Q. -- from black colleagues or others.

14 A. Hm-hmm.

15 Q. And they've described that in evidence as powerful.

16 A. Yes.

17 Q. And something that they remember. Did you take the view
18 that that type of training could have more impact and
19 could be recollected better by officers --

20 A. Yes.

21 Q. -- than perhaps training done online or in a classroom
22 with a presentation?

23 A. I think it's a combination of these but I do think that
24 it's, you know, what -- they know that visual -- visual
25 impact is much more -- much more effective in terms of

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1 what we recognise than what we hear and therefore, you
2 know, your concentration span if you're just hearing a
3 lecture or something but actually me engaging with
4 someone who is telling you about these things, it would
5 be -- and I think also just how impressive they are and
6 how much they want to help. The overwhelming sense I
7 got from these ones was they just wanted to prevent
8 further deaths of this nature, they wanted young police
9 officers to understand the absolutely cataclysmic impact
10 it has on families and on them because the police
11 officers who are involved in these deaths very often are
12 very ill for the rest of their lives as a result of
13 these so it's not -- and can develop mental illness and
14 tremendous stress for the rest of their lives so it's in
15 everyone's interest to get this right and I think that
16 that is something which these families were very willing
17 to try to assist and likewise in the current inquiry
18 that Sarah Everard's parents again, no, they cannot get
19 their daughter back, but what's absolutely at the
20 forefront of their mind is to prevent another young
21 woman or young boy for that matter being killed in
22 public, murdered in public, and they do so much because
23 that helps them as a family so I think that again I hope
24 that the police will, you know, if families want to be
25 involved in that try ways of involving them because

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1 I think that would help with the training.

2 Q. Thank you very much. I'm conscious of the time now,

3 Lady Angiolini, could you give me a moment, please?

4 Would that be an appropriate time?

5 THE ARBITRATOR: We'll stop for a 20-minute break and

6 members of the Inquiry team will liaise with you, Lady

7 Angiolini.

8 A. Thank you very much.

9 (11.31 am)

10 (A short break)

11 (11.57 am)

12 LORD BRACADALE: Ms Grahame.

13 MS GRAHAME: Thank you.

14 We were looking at chapter 5 on ethnicity,

15 Lady Angiolini, and we had been looking at your

16 recommendations in this chapter, which were on page 93

17 of the report, which will be 95 of the PDF and we looked

18 at the first four of those.

19 I would like to move on to the next recommendations.

20 These, if I could sum up, talk about data collection and

21 statistics. Now, in -- and we don't need to look at

22 this particular chapter, but chapter 2 of your report

23 raises the topic of data collection and the need for

24 accurate data collection and I think you make a

25 recommendations in chapter 2 at 2.75, that the police

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1 should record the range of variables and you recommend
2 that that be done in a consistent and systematic way.

3 And then we see in relation to ethnicity in this
4 chapter, if we move on to the next bulletpoint, which I
5 think is the fifth, that:

6 "The IPCC should monitor the correlation between
7 ethnicity and restraint-related deaths, including in
8 healthcare settings, where the police were involved.
9 Statistics should be published breaking down
10 restraint-related deaths by ethnicity."

11 And then you go on to say:

12 "The national programme for the police data
13 collection on the use of force must include ethnicity
14 and mental health, as well as other factors, in all
15 force data so as to provide a standardised national
16 picture."

17 You then say:

18 "National data collection on the use of force should
19 be analysed by the Home Office to draw out patterns and
20 devise national strategies to address discrimination
21 issues and the outcome of that. Both the data
22 collection and the analysis should be made public."

23 And you then say:

24 "The IPCC should monitor ethnicity and deaths in
25 custody against ethnicity and arrests by reference to

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1 all arrests, including non-notifiable offences."

2 I'm interested in your thoughts on this topic of
3 data collection and gathering in data regarding --
4 specifically regarding ethnicity that you have
5 recommended here and also the comment and recommendation
6 regarding analysis of that data. Why is it so important
7 to have police officers and police services gathering in
8 data and analysing it, primarily in relation to
9 ethnicity?

10 A. Well, unlike the Scottish Police Force, which is one
11 national force now, there are 43 different police forces
12 in England and Wales and, therefore, the gathering of
13 information, the College of Policing in England and
14 Wales there's a lot of its statistics et cetera, but,
15 again, that has to come from the grassroots of each of
16 these areas, from the police stations et cetera, it has
17 to be fed back.

18 And I think it's really important because there just
19 wasn't that statistical analysis across these forces,
20 because, again, you want to look at if there are
21 hotspots, you know, where it's occurring or where
22 there's a pattern over years in order that it can be
23 investigated. So if you look at the number of deaths
24 from hanging in cells over the years, there was a
25 miraculous decrease in that, it was just incredible, and

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1 all it was that they removed ligature points from the
2 cells and some cells had more ligature points where
3 someone could hang a rope or whatever, or a belt, than
4 and others.

5 So again, it's about the learning and the
6 cohesiveness of the information in order that we can
7 continue to monitor it properly. I suppose it's a
8 pretty dull aspect of the report, but it's nonetheless
9 absolutely critical for the future.

10 Q. Thank you. So the data collection, although it may not
11 to some appear as perhaps dramatic as other parts of
12 your report --

13 A. Yes.

14 Q. -- this data collection allows hotspots to be
15 identified, patterns to be spotted and allows analysis
16 to take place and then from what you're saying, that
17 analysis can then lead into learning which can result in
18 fewer people dying?

19 A. Yes.

20 Q. Yes?

21 A. Yes.

22 Q. This -- what starts with data collection and in the
23 right way and in a systematic way, can actually end up
24 with fewer deaths?

25 A. Yes.

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1 Q. And before I leave chapter 5, I would like to ask a
2 couple of things. Can we look back, please, back at
3 chapter 5.10 and we had touched on this briefly at the
4 outset. It related to the death of Sean Rigg.

5 A. Yes.

6 Q. And if we look at 5.12, you not only talk about the
7 Sean Rigg, the death, you then talk about the review
8 that was carried out after the IPCC investigation.

9 A. Hm-hmm.

10 Q. We have heard some evidence that the IPCC investigation,
11 although it was supposed to look at race, did not?

12 A. That's right.

13 Q. And that was reflected and drawn out by the subsequent
14 review.

15 A. That's right.

16 Q. And if we look at paragraph 5.12:

17 "A number of people who gave evidence to this review
18 [that's the subsequent review] considered that race and
19 ethnicity should automatically be considered as a factor
20 in any investigation where these characteristics are
21 present, unless proven otherwise. The concern that the
22 issue of race is not always considered in investigations
23 is a long-standing issue that was raised in the
24 Macpherson Report. Sir Iain queried whether officers
25 failed fully to accept racism and race relations as a

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1 central feature of the investigation."

2 And you say:

3 "Investigators need to start with an open mind and
4 go where the evidence takes them, but there is a need to
5 think ahead of the evidence in order to give full
6 consideration to the potential for discriminatory
7 treatment and practices from the outset in every
8 investigation."

9 And I think you go into this in more detail, but you
10 say at one point in your report there may be perception
11 that investigators are reluctant to look at race and and
12 that to some extent will tie in with the recommendation
13 that we look at the earlier in your -- at the end of
14 this chapter.

15 I was interested in this idea that there was perhaps
16 some reluctance to look at race and that's why, such as
17 in the Sean Rigg investigation carried out by the IPCC,
18 that although they should have looked at race, they
19 simply didn't.

20 Is this a theme that you have noticed emerging from
21 your review?

22 A. I don't think -- I don't recollect that being a
23 particular issue that came over from the cases that we
24 looked at, but I think that many investigators and still
25 police officers to this day are nervous about the issue

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1 of race. And again, some of that comes from the fact
2 that they may have had lives where they have few friends
3 or interactions with people from different races and
4 that they -- or different ethnicities and, therefore,
5 that they are concerned to -- insecure in their training
6 and how to approach it more than anything.

7 So it's, you know, the elephant in the room. You
8 know we are not -- it's there, but we'll keep this as we
9 would, unless there's something really specific that
10 comes into the evidence which suggests that it was an
11 issue, someone shouting in the course of their evidence,
12 you know, just trying to paraphrase a sort of reaching a
13 piece out saying "black bastard" or whatever they shout,
14 that then be the entree into looking at that when, in
15 fact, it should be in their mind from very beginning.

16 Q. We've heard that there may be circumstances where there
17 are not those overt examples --

18 A. Yes.

19 Q. -- of racist language being shouted during an incident
20 or such like?

21 A. Yes, yes.

22 Q. And we may have heard evidence that it's vital that
23 investigators look at underlying examples of evidence
24 that may amount or give rise to inferences of potential
25 racism?

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1 A. Yes.

2 Q. Would you agree with that?

3 A. Yes, yes.

4 Q. And did you see a route whereby that nervousness perhaps
5 on the part of the investigators or reluctance could be
6 corrected, could be resolved, so that they feel less
7 nervous?

8 A. Well, I think where it's not just about sharing, but
9 actually getting out there into the communities where
10 there are higher black and ethnic minority communities,
11 feeling comfortable, having colleagues who are --

12 I remember one a black police officer gave evidence
13 to me that he said that he found it very difficult
14 because he said that, you know, he would be out in the
15 street in his uniform and he would be -- he would
16 receive abuse from members of the public about being a
17 black police officer, so he was a target because of
18 that. And then he said he would take his uniform off
19 and go home and he would be the target of abuse for
20 being black in other circumstances, just in his private
21 life as well. But he said that he never felt that he
22 could discuss it with his colleagues because he would be
23 perceived as playing the race card. So he was very
24 isolated in that and I think that that there is a -- we
25 have an obligation to explore and to learn more about it

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1 to make sure we are, you know, not just simply looking
2 at textbooks, but we're actually getting out there and
3 actually begin to understand some of the issues and
4 challenges that our colleagues may be facing, but also
5 members of the public may be facing in their lives
6 because of their ethnicity.

7 Q. So not just training, whether reading books or texts,
8 the engagement with training where it's lived experience
9 being shared, or perhaps demonstrations of some sort,
10 but also again engaging with the community?

11 A. Lots of cultural feasts and celebrations as well and
12 some members of these communities are delighted to
13 invite you. If you had a police officer who wanted to
14 find out more about, for example, the Sikh community, he
15 could go along to their services, they can go along to a
16 wedding and meet people and have these opportunities to
17 get to know people from these communities.

18 So it's not easy to do that on a concerted basis if
19 you have a hundred new people coming in, but it's
20 something which if you're going to police the community
21 you're policing the whole community so you must
22 therefore feel comfortable dealing with people who have
23 mental illness or who are disabled or who are visitors
24 from countries from other countries. You have got to
25 have the ability to communicate and empathise with a

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1 full range of the community and that's something which
2 if you are -- that's why I was talking about the
3 New Zealand Police Force where people are a bit more
4 mature, a bit more confidence about talking to people,
5 having a chitchat with people. Whereas if you're young
6 coming in -- still predominantly male as well. There
7 are still not enough women in policing -- that those
8 skills are something which they learn eventually, but
9 how do you accelerate that and make sure they're fit to
10 be out on the streets.

11 Q. Potentially learning available from experiences from
12 international police forces as well as those within the
13 UK?

14 A. Yes, yes.

15 Q. And the comments you made about training, particularly
16 regarding ethnicity, would these equally apply in other
17 spheres such as in the Crown Office and Procurator
18 Fiscal Service and --

19 A. Yes.

20 Q. -- for precognoscers and advocate deposes and those
21 working within a wider sense of the field of justice?

22 A. Yes. I think it applies to every aspect of those who
23 are involved in public life that they're serving the
24 whole community and certainly, when I look back to when
25 I was a young deputy fiscal, there were very, very

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1 few -- I don't know if I can think of anyone when I
2 started who was from an ethnic minority. There must
3 have been in other offices, but very few. This is why,
4 you know, it's unconscious bias.

5 You didn't actually ask, you didn't challenge,
6 because that was, you know -- we had an assumption.
7 Sometimes we used to be told, well, a lot of -- for
8 instance, in Glasgow there was a significant Pakistani
9 population and we knew a lot -- we had friends and
10 neighbors who were Pakistani and they used to say they
11 weren't that keen for their children to go into law,
12 they didn't have a very high regard for lawyers, but
13 they wanted to be accountants and doctors and therefore
14 that could would steer them away.

15 But nonetheless, nobody went out there proactively
16 to actually see what we could do to try to make our
17 organisations much more representative of our
18 communities and enriching our communities as a result
19 and our ability to deal with witnesses and victims from
20 areas as well. So I think -- I don't think that was
21 confined to the justice look system. I think if you
22 looked universities, if you looked at any other
23 organisation, the judiciary, everywhere there was a
24 complacency and I think that that has changed. Sadly,
25 it's changed because of these tragedies. It has brought

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1 us to a screeching halt about the absence or the
2 apathetic approach there was to this because, you know,
3 everybody just -- I'm sure anyone who applied would get
4 in, but the fact that people weren't applying or weren't
5 coming in or weren't coming through universities into
6 these areas just wasn't questioned.

7 Q. And I think without the need to go to the report at the
8 moment, I think you come back to this theme in your 2020
9 report specifically regarding Police Scotland to
10 encourage diversity, and unconscious bias training, to
11 be provided more widely, regularly and consistently in
12 that regard across Police Scotland and so you also
13 relate the benefits of training in -- also specifically
14 to the police in your later report, if that's right?

15 A. Yes.

16 Q. Can I move on, please, to chapter 9. This is headed
17 "IPCC investigations." And we see at 9.1 that on page
18 121, which will be 123 PDF

19 A. 921?

20 Q. Yes, 121 is the page and chapter 9, paragraph 9.1,
21 you'll see the Independent Police Complaints Commission,
22 the IPCC, is referred to and this chapter deals with
23 them and I think earlier you said that's the English
24 equivalent of PIRC in Scotland?

25 A. Yes.

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1 Q. And if we could look, please, at paragraph 9.22.

2 Now, appreciate that this relates to the position in
3 England, but you do deal at paragraph 9.21 and 9.22 with
4 the issue of independence and we've heard that that is
5 an issue that arises in connection with investigations
6 under Article 2 of the Human Rights Convention. And in
7 paragraph 9.22 you say:

8 "This issue is wider than close professional
9 connections between the police and the IPCC. There is
10 also a wider cultural and historic connection, whereby
11 ex-police IPCC investigators may bring cultural
12 assumptions and sympathies with them."

13 And we've heard some evidence about the position and
14 independence in this Inquiry and we've heard that
15 certainly in 2015 and indeed now, we've just received
16 the up-to-date statistics, that 62 per cent of the
17 investigators within PIRC in Scotland at the moment have
18 a connection or a former connection, I should say, to
19 police, policing.

20 We have explored the issue of independence and the
21 independence of PIRC with a number of witnesses and I'm
22 interested in your thoughts here regarding independence
23 and the issues that arise and in paragraph 9.22 you
24 mention:

25 "Close professional connections are one aspect, but

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1 there is also a wider cultural and historic connection."

2 I'm interested in your thoughts about this
3 connection seen through the prison of Article 2 and
4 independence and the difficulties that those connections
5 and historic connections can give rise to?

6 A. Yes, yes, it was a concern. I'm not aware of what the
7 change was there. I do recollect that the head of IPCC
8 accepted it as an issue, but I think the problem that
9 they -- how they articulated was that they needed people
10 with these skills and it wasn't easily -- so you had to
11 have some form of policing, particularly if you at
12 things like scenes of crime detection if there was a
13 death, you expect the IPCC to be there, and I criticise
14 them for the fact that very often they weren't or they
15 weren't there, they would come up two or three days
16 later and they're not a blue light organisation, as they
17 describe themselves. They did not have at that time at
18 least emergency provision to get there.

19 I said you need to have some -- to be effective in
20 these cases they need to have that facility and they're
21 all very much based in the west of Scotland and I said
22 you have to have a Scotland-wide resource at least in
23 regions, so that you have the ability to have people
24 there. But in terms of their reliance on police, of
25 course it was the easy way, but it did I think cause me

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1 real concern at the time when I looked about the -- not
2 just perception, but the reality of their independence
3 and their likelihood that people knew people who they
4 were investigating or knew of them, because it's quite a
5 small country, and I would hope now that that situation
6 after so many years has now been addressed.

7 Q. Well, we've heard yesterday from the current
8 Commissioner that the current number of investigators
9 with a police -- former police connection is 62 per
10 cent.

11 A. 62 is still very high.

12 Q. Now, you have talked about the impact on public
13 confidence and I think at 9.23 you quote from someone
14 that spoke at the family listening days. Do you see
15 9.23?

16 A. Yes.

17 Q. "There is a perception that the IPCC operate with the
18 police to protect officers, that investigators tend to
19 be made up of ex-officers who are working with
20 ex-colleagues and that leaves the process feeling
21 one-sided or lacking true independence."

22 And was that a concern that you heard from family
23 members who have been involved in deaths in custody?

24 A. Yes, they did. As well I think the next paragraph
25 mentions that. It gives an example of observing the

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1 police -- IPCC arriving and being -- appearing quite
2 chummy with the police or chatting together and, again,
3 and I think 9.24 I say the members of the family say:

4 "The IPCC investigator wasn't real. He was an
5 ex-policeman. He was a wall. We couldn't talk to him.
6 He was there to defend. It felt like he was protecting
7 his job, protecting the Metropolitan Police."

8 This was obviously in the English context. So again
9 that really undermines wholly any confidence that can be
10 had in the process if that is the makeup of the
11 organisation. I hadn't appreciated that even now it's
12 as high as 62 per cent, which I think is worrying.

13 Q. I wonder if we could look at your recommendations in
14 relation to this chapter, page 137, and I think -- I'm
15 particularly interested in the second bulletpoint:

16 "Ex-police officers should be phased out as lead
17 investigators in the IPCC. To the extent that the IPCC
18 still considers this expertise is required, ex-police
19 staff should act as a consultancy and training source
20 within and, more appropriately, outwith the
21 organisation. The IPCC should also look beyond England
22 and Wales for expert consultants and secondees from
23 other investigative organisations who are also expert in
24 the investigative, forensic skills required to
25 investigate such serious cases, for example, from the

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1 Procurator Fiscal Service in Scotland and the Office of
2 the Ombudsman for Police in Northern Ireland. A wider
3 pool of expert resources can also be considered by
4 looking beyond the immediate jurisdiction of the IPCC."

5 And I'm wondering if you can expand on that
6 recommendation and whether that remains your view?

7 A. Yes, I think it's very important that they get a range
8 of different experiences of investigatory approaches so
9 that they're not simply mimicking the police, because
10 they have a different task and it's -- but they do
11 require to acquire some of the investigative and
12 forensic skills which can -- again, there will be some
13 experts from within the police who can provide these and
14 the training, but not rely wholly on the police as (a)
15 the whole source of staffing as well as the whole source
16 of training and again Ireland, Northern Ireland and even
17 Éire itself, the Republic of Ireland, I used to visit
18 them and the chiefs there to learn about their policing
19 issues and that they were very helpful and very willing
20 to assist and to look at issues in different
21 jurisdictions.

22 Q. Thank you. And then moving on in the recommendations,
23 you then also talk about:

24 "Written information about sources of specialist
25 support, including information about INQUEST, should be

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1 given to the family at the very first contact with an
2 IPCC representative, as well as alternative forms of
3 information. IPCC staff should tell families
4 immediately following the death of their loved one of
5 the right to independent specialist legal advice."

6 I'm interested in your views on the support that can
7 be provided to families who find themselves in this
8 situation and you have mentioned there some
9 recommendations. Again, was that something that you
10 felt was -- would assist families?

11 LORD BRACADALE: I'm sorry to interrupt, but I think there's
12 some technical difficulty that the family are drawing
13 attention to.

14 MS GRAHAME: Sorry I didn't --

15 A. I'm not sure whether, my Lord, whether or not your
16 having difficulty, but I have lost one of my earphones.
17 It just pinged out my ear. It's on the other side of
18 the room.

19 LORD BRACADALE: You can go and attend to that,
20 Lady Angiolini, while we try to resolve this issue.
21 I don't think it's possible. I don't think it's
22 possible to have the remote connection and the document
23 up on the big screen on the same time. Am I right in
24 thinking that?

25 MS GRAHAME: We could perhaps -- it might make it easier if

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1 we put the recommendations back on and see if it will
2 come on to the television, 137.

3 LORD BRACADALE: I think the technical expert is here now.

4 Thank you. Lady Angiolini, I think we're back on
5 course again. I suspect that Ms Grahame might have to
6 repeat the question that she's just asked.

7 MS GRAHAME: Thank you.

8 I had been planning to move on to two of your other
9 recommendations on page 137 of this report and I was
10 reading out the recommendations that written information
11 about sources of specialist support should be given to
12 every family at the first contact and:

13 "The IPCC staff should tell families immediately
14 following the death of their loved one of their right to
15 independent specialist legal advice."

16 And I was interested in your thoughts,
17 Lady Angiolini, in relation to whether this would
18 support the families, but also assist in looking at
19 things from the point of view of independence whether
20 you thought this would enhance independence and improve
21 public confidence?

22 A. Absolutely, I mean I think in terms of Article 2 of the
23 European Convention the family is entitled to legal
24 advice in these circumstances, but I'm not absolutely
25 sure whether I am getting that recollection right, but

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1 that was my -- is my recollection, but the availability
2 of and specialist legal advice, solicitors who are
3 comfortable and understand police stations and the
4 environment there is really important so that the family
5 have that support and Inquest is mentioned.

6 I was very impressed with Inquest as an organisation
7 and they had a number of excellent barristers and
8 solicitors who provided pro bono support as well as
9 acting and representing, once funded, for families and
10 who could come out to the police station and provide the
11 family with a representation in these circumstances and
12 help communication with the family, who are, as you can
13 imagine in these circumstances, not in a condition to be
14 able to communicate and take command of these matters.
15 They're in a state of absolute shock and distress.

16 Q. We do hope to hear further from Deborah Coles from
17 Inquest later in the Inquiry and we hope to hear from
18 her in relation to support that can be provided to
19 families.

20 Can we move down to the bottom of that page for the
21 recommendations. The second-last bulletpoint there,
22 your recommendation said:

23 "The IPCC should urgently consider whether to adopt
24 a formal time limit for the completion of Article 2
25 investigations with the lead investigator obliged to set

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1 out in writing why any extension to this limit was
2 required."

3 We've heard evidence in this Inquiry about the
4 length of time that the investigation took and the
5 duration of the period between the death of Mr Bayoh and
6 the final PIRC report finally being sent to
7 Crown Office. And I was interested that you have
8 highlighted there whether to adopt a formal time limit.
9 Can you expand for us, please, on what your thoughts
10 were in relation to that?

11 A. Yes. Well, obviously I looked at some of the times in
12 some of these investigations and it struck me as being a
13 great deal more leisurely than was required and that the
14 whole -- given the distress to the family and the
15 tragedy that there is, families can't move on -- they're
16 not going to some on with their lives in a dramatic way,
17 but can't even begin to grieve properly until these
18 process are completed so there is this urgent need to
19 (a) secure the evidence briskly and you'll see I made
20 recommendations also about that the IPCC weren't really
21 resourced or designed in any way to have 24 hour cover.
22 So if something happens in the middle of the night when
23 a lot of deaths in custody do happen, they weren't
24 about, so there was a need to change their skill set and
25 their approach to this and understanding of the

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1 investigators.

2 But likewise, the time limit is important. We have
3 in Scotland time limits for the prosecution of many
4 cases and while there is a capacity to ask for an
5 extension in these cases, I think the courts were, at
6 least in the past, I haven't been there recently, very
7 vigilant to ensure that that wasn't just because of a
8 dilatory approach to the investigation, that there was
9 absolutely a very good basis for that and I think it
10 struck me that the manner of the investigations was
11 somewhat leisurely compared to what I had seen in the
12 justice system and I think that that's why I considered
13 that it was really important to allow families to move
14 on with their grieving and get beyond this. It was
15 really important.

16 Q. Sorry. And obviously, you have experience of the
17 timescales in Scotland and you will have experience of
18 in fact prosecuting murder trials and --

19 A. Yes.

20 Q. -- dealing with matters along those lines. In
21 situations where there has been a death, perhaps a
22 murder, culpable homicide, something along those lines,
23 there are no issues about identification of the people
24 who were involved in that matter --

25 A. Hm-hmm.

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1 Q. -- what sort of timescale would you anticipate a murder
2 investigation, a culpable homicide investigation, to
3 reasonably take? I appreciate it will vary depending on
4 the circumstances, but when you're talking about time
5 limits, what sort of region were you considering would
6 be reasonable?

7 A. So are you talking about the police investigation or the
8 procurator fiscal sort of gets involved in that, very
9 often attended the scene of the crime that night or day
10 and --

11 Q. Well, could either be just the police or police and PIRC
12 or it could be including the crown investigation and the
13 crown precognition being prepared, but did you have any
14 thoughts yourself about a sort of reasonable range of
15 periods that could be --

16 A. Well, the 110 days is a limit even for a murder case in
17 Scotland for -- where the accused is in custody and it
18 may have changed, again, I'm not familiar as to whether
19 or not it's changed, and one year if the accused was on
20 bail. So one year if you look at it, looks to me as if
21 it would be the outside that you would be looking for
22 for the completion of these processes as well which
23 should be taking place in a, you know, with quite clear
24 targets at the beginning of the -- of the Inquiry.

25 Sometimes it can become more complex and, again, in

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1 criminal context, can go to the court, revert to the
2 court to ask the court's permission to extend the time
3 limit, but you have to have a firm basis for that and I
4 think part of the problem here was there wasn't any
5 sense of urgency about this and no time limits which
6 could really give them a discipline to ensure that
7 things were done not speedily with the injury to
8 equality, but done briskly and with a view to the fact
9 that you have a family for whom life has stood still and
10 the need for that to happen briskly for everyone.

11 Q. Thank you. And the just for those members of the public
12 who may be listening, that one-year period would be
13 where the accused was on bail?

14 A. Yes.

15 Q. That would be the period of time within which the trial
16 would commence, subject to any applications to extend
17 the period?

18 A. Yes.

19 Q. Either from crown or the accused?

20 A. Yes.

21 Q. Could we turn back to annex C, please, which is on page
22 254. I said that I would come back to the issue of
23 media engagement and you'll see that the annex C is the
24 report of the family listening days.

25 A. Yes.

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1 Q. And I wonder if we could look at page 271 of the PDF,
2 and -- sorry, page 271 of the report and paragraph 1.8
3 which is under the "Considerations". There we are. And
4 this talks about "false narratives" and "victim blaming"
5 so this is an aspect of, as I understand it, the
6 discussion that took place on one of these or both of
7 these family listening days; is that correct?

8 A. That's right.

9 Q. You've highlighted here that:

10 "Families outlined two key ways the media had
11 impacted on their experiences of the process; for some
12 the first they knew of their relative's death was via
13 media outlets (including on Twitter), and others had
14 complaints about the way the media was used by both the
15 police and the IPCC immediately following a death.
16 Families were unhappy that stories, often unchecked by
17 them prior to release, ended up misinforming or
18 'muddying the waters'. This took the form of creating
19 false narratives thus helping erode any confidence in
20 the veracity of the investigation and inquest process.
21 Some families felt this was an intentional tactic (often
22 starting at the point at which officers conferred) [and
23 you refer back to that] employed with the express
24 purpose of deflecting blame or responsibility away from
25 those involved with the death and shifting it onto the

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1 victims. Evidently this 'tactic' is not rare as a
2 number of families provided examples where information
3 about the families or the relatives was used to create a
4 false narrative, and according to families, often in
5 collusion with the media."

6 A. Yes.

7 Q. And then you give a number of quotations given no doubt
8 at the family listening days from a variety of family
9 members. Can you help us understand the significance of
10 these issues to families who are dealing with a death in
11 custody?

12 A. They were absolutely heartbroken about the situation
13 because they are trying to contend with just the horror
14 of having lost their loved one and then these distorted
15 betrayals were appearing in the press the next day when
16 the only information that could have got out would have
17 been from the police and that's you will see that I made
18 quite a great deal about police not conferring during
19 these circumstances, but some police officers even to
20 this day have contacted the media. The media rely on
21 the police for stories, particularly if there's a
22 shortage of news, and it used to be the press would
23 attend the court, you very rarely see press in courts
24 now, but now they rely on police to send out those
25 stories to them or to pass -- this is an informal

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1 situation, this is not something which is condoned by
2 their employers, but --

3 So I think the impact on families is from the very
4 beginning they have a skewed portrayal of their loved
5 one and therefore they have a sort of rebuttal
6 presumption that the whole situation is going to be
7 stacked against them when it comes to that circumstances
8 of their loved one's death being investigated neutrally
9 and independently.

10 Q. And was there any evidence that you gathered in relation
11 to these false narratives and victim blaming themes and
12 patterns that ethnicity or race was an element to that?

13 A. Yes, I think there were cases and I think Deborah Coles
14 from Inquest will be able to tell you about the specific
15 cases where she has experienced that as well.

16 Q. Thank you. And then I think, just for completeness, you
17 do specifically deal with issues in detail about family
18 support in chapter 15 of your report. That starts of
19 page 193. And I think at paragraph 15.10 on page 196
20 you talk about the family's perception, 15.10:

21 "[About] perception [about] those who subsequently
22 advise them that following the death police forces have
23 been quick to portray the deceased and their friends and
24 relatives in a poor light in an effort to neutralise any
25 public sympathy."

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1 And you've included there not just the families and
2 the relatives but friends also. Was that something that
3 you noted when you were gathering in evidence about
4 this?

5 A. Yes.

6 Q. Did you have any examples that came to your attention
7 that related not just to families or relatives or
8 friends but to legal representatives?

9 A. In the context of legal representatives providing
10 information --

11 Q. And the narrative being portrayed in the media?

12 A. Of the legal representatives of the police?

13 Q. Legal representatives of the families.

14 A. Certainly, I do think that we spoke to a number of those
15 who represented and they did -- they had real concerns
16 about this. This was a real, you know, that there was
17 almost like they galvanised it into action to portray a
18 negative account of this and there would be an account
19 from, you know, an unnamed police officer, you know, who
20 the media just so happened to have a link with who
21 would presumably be one of the officers involved in it
22 or close to it and this would then be provided and that
23 was the -- so from a very early stage the media
24 portrayal of this situation is bad -- bad mad guy, you
25 know, or black bad mad guy, the picture of police

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1 officers having to go in and and deal with these very,
2 very difficult cases.

3 Q. And do we see in paragraph 15.10 that you give a
4 quotation there:

5 "They said information was given that (relative) was
6 a drug addict, but that's not true, she had mental
7 health problems. There was an article in the press
8 saying she was a drug addict and the reporter said the
9 information was from the IPCC."

10 So did you have examples of not simply police
11 officers possibly sharing stories with the press, but
12 also the IPCC sharing stories or presenting a narrative
13 to the press?

14 A. Well, that's obviously one of them. I can't remember if
15 there were any other examples, but that's why, again,
16 I was concerned about the percentage of former police
17 officers who were investigators in the IPCC and gave
18 them specific targets in the Scottish context to reduce
19 that reliance, because it wasn't appropriate because
20 they all knew each other so you had, you know -- and so
21 the notion of an independent investigation when they had
22 all been colleagues years before was almost farcical
23 and, therefore, it was absolutely critical that this was
24 a truly independent group. And if, you know, these
25 statements were being provided by the IPCC staff as

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1 well, that's again another warning sign about the lack
2 of independence in that process.

3 I'm sure -- I hope -- in fact you have told me it's
4 not. It's still 62 per cent police officers and I still
5 think that's much, much higher than it should be.

6 Q. And then to concluded, do we see that you have
7 summarised your recommendations at chapter 18 of this
8 report, and these are grouped thematically.

9 A. Yes.

10 Q. And those themes include, on page 235, restraint.

11 A. Yes.

12 Q. And you've listed the restraint-specific recommendations
13 which can be found in detail during the -- within the
14 body of your report.

15 A. Yes.

16 Q. And then they also deal with funding for families and
17 the issue of family support at page 238.

18 A. Yes.

19 Q. And these themes cover all the recommendations that are
20 within the body of your report?

21 A. Yes.

22 Q. And will be available for the Chair to consider in due
23 course.

24 A. Yes.

25 Q. I would like to move on now, please, to your 2020

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1 report, please. And this -- I'll look at the final
2 report and this is from November 2020, and it's
3 SBPI 00501, so we have the reference and that's come up
4 on the screen here and I understand you have a hard copy
5 of that final report.

6 A. Yes.

7 Q. And this is the Independent Review of complaints
8 Handling, Investigations and Misconduct Issues in
9 Relation to Policing, and am I right in saying this is
10 the one that's specifically in connection with
11 Police Scotland.

12 A. Yes.

13 Q. Right. Thank you. If you can just give me a moment.
14 I would like to ask you some questions about police
15 culture and I think paragraph 26 may be the right place.
16 May be not.

17 A. Yes, yes, that's right.

18 Q. Is it right? Okay. But I am interested in police
19 culture and we have heard some evidence about this topic
20 and we've heard the use of a phrase "canteen culture"?

21 A. Yes.

22 Q. We've heard evidence that police culture is not
23 monolithic and I think we've heard that from former
24 DCC Designate Fiona Taylor and you have referred in your
25 report to the strong influence of the what we've heard

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1 was called legacy forces, the regional forces which
2 existed prior to the 1 April 2018 when Police Scotland
3 came into existence. I wonder if you can help us, what
4 was your impression about police culture when you came
5 to preparing this report?

6 A. Again, I'm influenced to some extent now because I am
7 looking at it through the lense of having looked at it
8 in the Wayne Couzens case. I want to make sure I don't
9 confuse, you know, what --

10 Q. Sorry, Lady Angiolini, I couldn't quite catch that, the
11 sound went slightly there, sorry.

12 A. Okay. I just want to make sure that I'm not merging
13 what I have come across in the context of the
14 Wayne Couzens investigation about culture and what I
15 remember seeing at this time in Scotland but one view
16 I think was that the Strathclyde was very dominant when
17 there was this merge, when they came together as one
18 police force in the early days, and there was a slight
19 sniffiness, if I can call it that, by former Strathclyde
20 officers about the skills and the abilities of the other
21 forces. I'm not sure whether or not that dissipated
22 over the passage of time as promotions and better
23 integration would take place when people moved about
24 from one part of the country to the other. But -- and
25 without reading this section again, I don't think I can

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1 remember specifically anything that I said other than
2 about inclusion and diversity but I don't think that at
3 the beginning they felt comfortable suddenly being
4 embraced in one national force, I think it took quite a
5 while for it to settle.

6 Q. All right, we'll maybe come back to that. Can I ask you
7 to look at chapter 9 of this final report?

8 A. Yes.

9 Q. I've just realised the reason I'm having difficulty
10 finding the right chapter is I'm looking at the
11 preliminary report here and I haven't brought my final
12 report. However, I do have the correct page references
13 but you'll have a slight advantage on me at the moment
14 which I can correct over lunchtime. I'm interested in
15 chapter 9 which I understand in your final report deals
16 with inclusion diversity and discrimination; is that
17 correct?

18 A. Yes, yes.

19 Q. And can you assist us by explaining to the Chair how you
20 gathered in information and evidence in relation to the
21 experiences of black police officers in Police Scotland?

22 A. I was assisted by some of the organisations, the police
23 organisations that represent officers from this
24 background. SEMPER rings a bell.

25 Q. Yes.

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- 1 A. I'm not sure if that's -- SEMPER --
- 2 Q. We hope to hear from the Chair of SEMPER, Sandra
3 Delandes-Clark.
- 4 A. Yes.
- 5 Q. We hope to hear evidence from her in due course during
6 the Inquiry.
- 7 A. And there were other -- I can see from 9.7 here, I met
8 with a range of groups representing minority communities
9 and evidence gathering meetings with BEMIS, which I'm
10 not sure what that acronym is for, but it's an umbrella
11 body supporting the development of ethnic minorities in
12 the voluntary sector, Coalition for Racial Equality and
13 Rights, Scottish Women's Development Forum and Scottish
14 LGBTI+ Association as well as SEMPER, but all of these
15 groups were very helpful in actually identifying other
16 people from -- from who I was particularly interested in
17 regarding the issue of ethnicity and the impact there.
18 I also asked the police if I could be put in contact
19 with any officers from those communities as well and
20 they were helpful and I was able to write directly to
21 officers and invite them to come and see me and a number
22 did come and give evidence to me individually as well as
23 having a large focus group of officers as well where
24 they were really forthcoming and very, very helpful.
- 25 Q. Thank you. So you not only spoke or took evidence from

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1 individuals who had evidence to give in regard to issues
2 of inclusion, diversity and discrimination but also
3 conducted a focus group. Can you tell us a little bit
4 about the focus group and how evidence from the focus
5 group was shared with you?

6 A. Well, the -- I would be present at the focus groups,
7 I would go along to them, and we would have a
8 facilitator who would ask a particular question and then
9 we would ask people for their views or experiences of
10 the particular issues we were looking at and there would
11 be notetakers who take notes of the issues which -- or
12 the evidence that was being provided from the
13 individuals and and it was very good because you would
14 have different views, people are very respectful of each
15 other and it was enormously helpful and I have used them
16 also in the current inquiry that I'm doing as well. I
17 have just had three days of focus groups from different
18 areas of policing looking at not dissimilar issues from
19 those who were looking at police culture, for instance,
20 and we had, you know, a full day of -- different focus
21 groups each day of police officers and nonpolice
22 officers and those supporting them to help give evidence
23 so it does give a -- that informal setting also I think
24 makes people confident to give evidence.

25 Q. And how did you identify the individuals or the

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1 organisations which were chosen or selected to attend
2 those focus groups?

3 A. From different sources. Some were from the police, some
4 were from -- so for instance SEMPER were very helpful in
5 being able to identify other charities and other
6 organisations that they related to and the Chief
7 Constable I have to say was very helpful as well in
8 identifying organisations that he thought could help
9 give a sense and I have to say that certainly at the
10 time of this the Chief Constable was incredibly
11 supportive of the process.

12 Q. And --

13 A. There wasn't a defensiveness.

14 Q. Sorry. And were there black officers involved with
15 those focus groups as well as giving individual evidence
16 who had actual experience, real lived experience of
17 being officers for Police Scotland or previous legacy
18 forces?

19 A. Yes, there were. In fact, that police officer that I
20 mentioned who described his experience of, you know, the
21 abuse he would get from being black and as a black
22 police officer but then what he felt at the time was --
23 and I'm still very marked by his evidence -- is that he
24 would come back to the station and people were asking
25 how are you getting on, et cetera, he would never tell

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1 them about it because he was always concerned as being
2 seen to play the race card and he -- so these were
3 additional pressures. Not only was it happening in
4 terms of the abuse but then the feeling that you had to
5 actually not moan about it or seek support from your
6 colleagues which other officers would have done
7 regularly in such circumstances.

8 Q. And was that evidence of that real experience in
9 Police Scotland used as a foundation for the conclusions
10 that you drew in your 2020 report?

11 A. Yes, yes, yes, the evidence which we got from these
12 officers certainly I discovered(?) there were recurring
13 themes emerging from experience of different groups and
14 how individuals within the police service felt they were
15 cheated as well as how communities felt about the police
16 so they were all from individuals who came across during
17 the course of those and some of them actually I would
18 do -- if they were at a focus group and they were --
19 they had an awful lot to say, I would then -- we would
20 they know take a statement from them afterwards and
21 interview them afterwards.

22 Q. And in terms of rank, were they from a variety of ranks
23 throughout the police service --

24 A. Yes.

25 Q. -- or was it concentrated in one area?

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1 A. No, there were some in supervisory positions as well, it
2 wasn't just police constables.

3 Q. And was there also a range of length of service so
4 perhaps more junior officers but also those with a
5 lengthy service over a number of years?

6 A. Yes, there was a mix.

7 Q. And in terms of learning from those focus groups and the
8 individual witness statements, were those of use to you
9 in terms of considering issues regarding discrimination?

10 A. Yes, and again this marked feeling that they were --
11 some of them were hanging on in there but contemplating
12 leaving and that was something which was marked as well,
13 because of the sort of the feeling of double
14 discrimination that the -- that they would have from the
15 public but -- policing the public but also then not
16 having the empathy or at least not feeling confident
17 enough to seek empathy or support from your colleagues
18 because of this apprehension that they were seen as, I
19 said earlier, as was described to me "playing the race
20 card". In fact, I think it's in the chat, I just
21 spotted this, at 9.5.

22 Q. 9.5, thank you. We can maybe come back to this after
23 lunch. So although your report in terms of the 2020
24 report deals with complaint handling, investigations and
25 misconduct, and it's not specifically or exclusively

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1 focusing on complaints of race, is it -- or to racial
2 discrimination, is it fair to say that that was
3 something that was very much considered by you as part
4 of this report?

5 A. Yes, yes.

6 Q. And in doing so, the evidence that you gathered, sought
7 specific experiences from, would that include black
8 officers as well as those from other ethnic minorities?

9 A. Yes.

10 Q. Thank you. And I have just realised that I didn't
11 actually explain at the outset the circumstances in
12 which you had come to prepare this report and I wonder
13 if you could just before lunch maybe explain how it came
14 around that you were asked to prepare this report, and I
15 think you had been approached by one of the then cabinet
16 secretaries in the Scottish Parliament, Mr Matheson?

17 A. That's right, he was the Justice Minister, so I was
18 asked -- he approached me -- he had -- I think it's in
19 the forward here, Cabinet Secretary of Justice and the
20 Lord Advocate, in fact, it was both of them. I'm trying
21 to think who the Lord Advocate was at that point after
22 me. It might have been ...

23 Q. Would that have been James Wolffe? I think if we --

24 A. Yes.

25 Q. I think you do not have the preliminary report but I

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1 have the advantage of having that in front of me and it
2 says in June 2018 Michael Matheson the then Cabinet
3 Secretary for Justice and the Lord Advocate James Wolffe
4 invited you to conduct an independent review of
5 complaints against the police in Scotland.

6 A. Yes.

7 Q. And that was commenced in September 2018.

8 A. That's right.

9 Q. Thank you. I'm conscious of the time, if I could be
10 given a moment?

11 LORD BRACADALE: Yes, well, we'll stop for lunch and we'll
12 sit again at 2 o'clock and again the team will liaise
13 with you, Lady Angiolini.

14 A. Thank you very much, my Lord.

15 (1.01 pm)

16 (Luncheon adjournment)

17 (2.07 pm)

18 LORD BRACADALE: Ms Grahame.

19 MS GRAHAME: Thank you. Lady Angiolini, before lunch we
20 were talking about your 2020 report and I wonder if
21 I can ask you to look at chapter 7, and in particular
22 let's begin with paragraph 7.4, which is found on page
23 82 of that PDF, but is actually page 81 of the report --

24 A. Yes.

25 Q. -- itself. And paragraph 7.4 relates to the police

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1 Professional Standards Department. 7.4, please.

2 A. Yes, got that.

3 Q. And you talk about -- and we've heard evidence about the
4 involvement of the Professional Standards Department
5 within issues of conduct and -- and, in fact, you also
6 mention, if we can go on to page 82, you specifically
7 mention the Police Service of Scotland Conduct
8 Regulations 2014. Are those the Regulations that you
9 had regard to when you were preparing your report?

10 A. I assume they were. I can't remember now, but I must
11 have I would have thought.

12 Q. Thank you. And can we look at paragraph 7.57, please,
13 and again you come back to the question of independence
14 here, 7.57:

15 "A common theme in the course of my review has been
16 expression of concern about the concept of the police
17 investigating the police when a complaint is made about
18 their service or conduct. This was succinctly put by
19 one member of the public who told me that 'people who
20 investigating themselves don't tend to find themselves
21 guilty.'"

22 Do you see that paragraph 7.57.

23 A. It's much further on, is it?

24 Q. Yes, it's 57, 7.57.

25 A. Yes, that's right.

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1 Q. And it's on -- I have it on -- excellent. Thank you.

2 And again, in going back to this question of
3 independence, you talk about a common theme, was this a
4 concern not just in relation to investigations into
5 deaths, but also investigations into the conduct of
6 police officers?

7 A. Yes, yes.

8 Q. And can we look, please, at paragraph 7.60, and do we
9 see again that you refer to the five principles in
10 relation to Article 2 under the European Convention of
11 Human Rights and independence is mentioned there.

12 A. Yes.

13 Q. And then at 7.61 you mention the other principles,
14 including adequacy, promptness, public scrutiny and
15 victim involvement.

16 And again, was this very much through the prism of
17 Article 2 that you considered questions relating to
18 conduct and complaint?

19 A. Yes, yes.

20 Q. And can we look at your recommendations, please. These
21 are on page 123 of the actual report, at page 124 of the
22 PDF, so paragraph 7.143 and do we see there the
23 recommendations in this report are in bold at the end of
24 each chapter.

25 A. Yes.

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1 Q. And this says:

2 "Other than for pressing operating reasons, police
3 officers involved in a death in custody or serious
4 incident, whether as principal officers or witnesses to
5 the incident, should not confer or speak to each other
6 following that incident and prior to producing their
7 initial accounts and statements on any matter concerning
8 their individual recollections of the incident, even
9 about seemingly minor details. As with civilian
10 witnesses, all statements should be the honestly held
11 recollection of the individual officer."

12 And I appreciate that in your previous report, the
13 2017 report, and also in this report, you have commented
14 in relation to conferral. Having considered all matters
15 with regarding conferral, was this your final conclusion
16 that there should not be conferral if there has been a
17 death in custody or, for example, a death after police
18 contact?

19 A. Yes. I think I give the caveat there that if they're in
20 isolated circumstances or there is some pressing reason
21 they have to speak, then clearly health and safety et
22 cetera might demand that that can't be obtempered in
23 full, but where it's practical and reasonable, then they
24 should be separated and their statements taken, just as
25 civilian witnesses would be approached by the police and

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1 they would not take their take together.

2 I also think that this provision is there to
3 actually protect police in a sense from themselves,
4 because even if they haven't thought about it then, the
5 fact that they were left together for a significant
6 amount of time chatting about or if they claim they
7 haven't, it's a bit like throwing a skunk in the room
8 and asking people not to smell it. It doesn't really
9 assist them. I think this is a better way of protecting
10 the evidence and also their own recollection -- genuine
11 recollections.

12 Q. So as much for the benefit of the officers themselves --

13 A. Exactly.

14 Q. -- as the public perception that may exist if they are
15 permitted to confer?

16 A. Yes, yes.

17 Q. And can we move on to paragraph 7.153 and this is on the
18 PDF at page 125, but I think it's 124 of the actual
19 report.

20 A. Yes.

21 Q. And this recommendation is:

22 "The Scottish Government should consider the case
23 for giving the PIRC a specific legislative power that
24 would enable staff is to access the Centurian database
25 from its own offices so that contemporaneous audit is

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1 possible. Providing a basis in law for accessing any
2 information relevant to the PIRC's statutory functions
3 should ensure compatibility with GDPR and any other
4 relevant data protection legislation."

5 Now, we've heard evidence that Centurian, the
6 Centurian database, is one used by Police Scotland, is
7 that the database that's referred to here?

8 A. Yes, yes.

9 Q. And we've also heard evidence that PIRC, in the past
10 certainly, may have had to request that checks of the
11 database are carried out by police officers?

12 A. Hm-hmm.

13 Q. And was this recommendations designed to avoid that
14 potential conflict of interest, that potential attack on
15 independence of PIRC's investigation?

16 A. Yes.

17 Q. Thank you.

18 A. Yes.

19 Q. Well, then can we move on to chapter 8, please, and in
20 particular paragraph 8.16, and you'll see that this is a
21 recommendation in bold. It's on page 129 of the actual
22 report.

23 A. Oh, yes, got it, yes.

24 Q. "Police Scotland's Executive team should consider
25 in-depth and review the criteria and competencies..."

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1 Sorry, I have got the wrong number here. It's not
2 this one that I was wanting. It was, sorry, page 130.

3 A. Yes.

4 Q. Chapter 9 "Complaints in the context of inclusion,
5 diversity and discrimination," and we actually very
6 briefly touched on that just before lunch, although at
7 that stage I didn't have the terms of the report quite
8 in front of me.

9 And we are hoping to hear evidence later in
10 the Inquiry from two other witnesses, one is called
11 Steve Allen and one is Sandra Delandes-Clark, who's the
12 Chair of SEMPER. I think I have already mentioned her
13 name.

14 A. Hm-hmm.

15 Q. Steve Allen, as I understand it, may give evidence to
16 the Inquiry that he was of the view that there was a
17 missed opportunity to embed a cultural commitment to
18 equality and diversity during the transition to
19 Police Scotland and that was when they moved from the
20 legacy forces and Police Scotland was created on
21 1 April 2013.

22 A. Hm-hmm.

23 Q. And I wondered, first of all, whether you would have any
24 thought about that that there was a missed opportunity
25 to truly embed a cultural commitment to equality and

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1 diversity in Police Scotland in 2013?

2 A. Does he mean by there being a specific reference to that
3 in the constitution of the new force? I'm not quite
4 sure -- where did he propose that that should be
5 contained?

6 Q. I don't have his evidence in front of me. We hope to
7 hear evidence, further evidence from Mr Allen, about
8 these matters. We do have a statement from him, but we
9 don't have the full details.

10 A. Just in general, yes, it would have been a really good
11 opportunity, a very positive statement and I think it
12 would have been a good juncture. At that point we have
13 this new force and to have that up front. It's not
14 something which I -- I don't if mine came after before
15 that, but I certainly think that that would have been --
16 it's not -- presumably still something they could do.

17 Q. I was going to ask you that. Does anything in your
18 report suggest that it would be too late for
19 improvements to be made by Police Scotland? We have
20 heard on an action plan that exists and attempts that
21 are being made to improve the culture within
22 Police Scotland in terms of the equality, diversity,
23 inclusion, was there anything in your report to suggest
24 that wouldn't be a worthwhile endeavour?

25 A. No, because every year you have got a different

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1 audience, you have got different systems, different kids
2 growing up and different people applying to the police
3 and I think something as bold as that right up front
4 about what they're about sends out a powerful message
5 and also encourages a much more diverse group of people
6 applying -- to apply for the role.

7 Q. Thank you. And you have mentioned SEMPER and, as I have
8 said, we hope to hear from Sandra Delandes-Clark later
9 in the Inquiry. I understand she may give evidence that
10 SEMPER were not approached to discuss embedding a better
11 culture of equality and diversity in Police Scotland
12 when it was created.

13 Did you have any impression from your dealings with
14 SEMPER, and those from SEMPER, as to the benefit of
15 including them with discussions about improvements that
16 can be made?

17 A. Discussions with the police when it was being
18 established?

19 Q. With SEMPER.

20 A. Yes, I found them very, very helpful and knowledgeable
21 about these issues and I think it could only have been
22 beneficial.

23 Q. Thank you. Could we look please chapter 9 on
24 complaints. Now, I have that on the screen in front of
25 me. "Complaints in the context of inclusion, diversity

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1 and discrimination."

2 If we look at paragraph 9.1, you say:

3 "The way any organisation responds to complaints and
4 the character of its internal culture are both important
5 indicators of the maturity, health and effectiveness of
6 that organisation. This can be observed in the
7 commercial context as well as in public entities.
8 Listening and responding effectively to complaints and,
9 crucially, learning the implications of what those
10 complaints indicate are excellent mechanisms for
11 improving the quality of the service provided."

12 We've heard some suggestions of perhaps at one time
13 at least, perhaps not now, of defensiveness and
14 protectiveness on the part of the police when complaints
15 are tendered or made by members of the public in
16 particular and I wonder if you have any thoughts about
17 the tension between and perhaps the reaction of
18 defensiveness or protectiveness when a complaint is
19 made, but also an organisation -- a mature organisation
20 learning lessons and moving forward in a constructive
21 way; do you have any thoughts about that?

22 A. Yes, and I agree with the proposition. I used to work
23 away back in the dark ages as a sales assistant with
24 Marks & Spencers, and this is not a commercial interlude
25 for them, but I always found it incredible how they

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1 genuinely welcome complaints, because they were in terms
2 of their commercial imperative interactive, because it's
3 how they learn. And even if it's a difficult one, it
4 should be a feeling of, oh, thank goodness we know about
5 it and what can we do to prevent this recurring? So
6 complaints are a really important aspect of a learning
7 culture in any organisation and improvement.

8 Q. Thank you. Can we look at paragraph 9.5, so it's not
9 9.50, it's 9.5.

10 A. Yes.

11 Q. And here we are:

12 "The evidence suggests that some officers and staff
13 experience discriminatory conduct, attitudes, behaviours
14 and micro-aggressions, both internally and externally in
15 the course of their duties. We heard that many of these
16 incidents go unreported even though some of these
17 behaviours constitute misconduct and that there was a
18 reluctance in those Black, Asian and minority ethnic
19 officers to report for fear of being characterised as
20 'playing the race card'."

21 A. Yes.

22 Q. And I wonder particularly as you mentioned
23 micro-aggressions that these are going unreported
24 although some may constitute misconduct and I'm
25 interested in the evidence that you gathered that

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1 allowed you to draw out this conclusion.

2 A. I think there were elements of being left out of a night
3 out, not included, you know, just not included or going
4 for, you know, a drink after work or maybe some sort of
5 tournament on and find themselves just not included in
6 these things and there wasn't -- I didn't ever get a
7 sense of overt mockery or anything, but just a sense of
8 finding it difficult to get into sometimes into
9 friendship groups within the organisation.

10 Q. And was it your -- did you have any views about what the
11 organisation itself could do to promote friendship
12 groups and inclusion for others within friendship groups
13 or events that are being arranged?

14 A. Well, yes, in the sense if you have them, it's more
15 supervised. I suppose supervisors and bosses, you know,
16 sometimes people invite folk to their house making sure
17 that, you know, always inviting all staff and not
18 excluding people from those events, but, again, I,
19 again, think that the cultural issues were just
20 psychological barriers for some individuals that they
21 just didn't see what they would have in common in their
22 lives, because if someone was a Muslim they wouldn't
23 want to the drink or they might -- and again, a lot of
24 it was an absence of interest in others and, you know,
25 or expanding your friendship circle to people who have

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1 got really so much to offer and I think that -- I'm not
2 sure if that's still a common feature, I hope it's not,
3 but, again, I suppose people are drawn to very often
4 those who are similar to themselves and that doesn't
5 auger well in terms of having a diverse and fully
6 integrated society where everyone feels comfortable to
7 be themselves.

8 Q. And in particular with things like conduct and
9 micro-aggressions, if those were reported, was it your
10 expectation that those would be dealt with in terms of
11 the Conduct Regulations within Police Scotland?

12 A. I think I may have said somewhere there was a feeling
13 that someone would try -- they always -- this isn't just
14 confined to this. If there was a grievance of some
15 description, I think very often the sergeant or the
16 inspector would attempt to mediate over the matter and
17 try and resolve it without going through a formal
18 channel, but they did on occasion, but, again, it was
19 like a nuclear button making a complaint, so the
20 prospects of these actually happening was another
21 matter.

22 Q. Can we move on, please, to paragraph 9.10, and this is
23 on page 132 of your report towards the bottom, page 133
24 of the PDF, and here you quote from
25 Sir William Macpherson in the Stephen Lawrence Inquiry

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1 where Sir William wrote:

2 "Unwitting racism can arise because of lack of
3 understanding, ignorance or mistaken beliefs. It can
4 arise from well-intentioned but patronising words or
5 actions. It can arise from unfamiliarity with the
6 behaviour or cultural traditions of people or families
7 from minority ethnic communities. It can arise from
8 racist stereotyping of black people as potential
9 criminals or troublemakers. Often this arises out of
10 uncritical self-understanding born out of an inflexible
11 police ethos of the 'traditional' way of doing things.
12 Furthermore such attitudes can authorise in a tightly
13 knit community, so that there can be a collective
14 failure to detect and to outlaw this breed of racism.
15 The police canteen can too easily be the breeding
16 ground."

17 Now, this is obviously a quotation from 1999. To
18 what extent would you say that description matched the
19 description of Police Scotland in 2020 when you did your
20 report?

21 A. I think there was still evidence of it. I think that
22 with younger members of the staff I think they were
23 beginning to be much more interested in each other and I
24 think part of this is progress. If you look at the fact
25 that, again, people are traveling so much, people really

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1 enjoy going out for meals from different countries and
2 tasting different cuisines and getting interested.
3 People have got much more of an appetite to learn about
4 other countries, whereas if you go back to the 1960s
5 there just wasn't -- there wasn't -- well, we didn't,
6 you know, many people wouldn't have had the money, but
7 there wasn't the infrastructure for people to travel and
8 to learn more about cultures, as a result of which I
9 think people are a bit more relaxed, but there are still
10 issues.

11 I don't believe that those issues have disappeared.
12 I still think that it is a challenge for people coming
13 in from a minority community to make friends and to feel
14 comfortable in the whole community and really belonging
15 and that's why there has to be real effort on the part
16 of not just the supervisors but all colleagues to make
17 sure that folk feel comfortable and are befriended in
18 the same way we would with others.

19 Q. Thank you. Could you look at paragraph 9.86, which is
20 on page 153 of your report and you've mentioned here
21 specifically "Attitudes and Behaviours":

22 "Discriminatory attitudes and behaviours do exist in
23 Scotland and they also exist in Police Scotland; that
24 was evident in the discussion that I have had over
25 recent months. The evidence presented to the Review in

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1 relation to complaints and misconduct matters is that
2 discriminatory attitudes and behaviours are present
3 within Police Scotland, as they are in many
4 organisations, and that such attitudes and behaviours
5 are also exhibited by some members of the public in the
6 way they treat police officers."

7 We have heard much evidence in this Inquiry which
8 suggests that many witnesses have never seen or heard or
9 witnessed any discriminatory attitudes or behaviours,
10 but here you say they do exist both in Scotland and also
11 in Police Scotland.

12 A. Hm-hmm.

13 Q. In terms of the evidence that you received and reviewed
14 in preparing for this report, was it evident to you that
15 there were discriminatory attitudes and behaviours that
16 were present in Police Scotland at that time?

17 A. Yes. And again, I'm not surprised that people say that
18 complaints weren't made, because that was also probably
19 the reality of it.

20 If you look to another context again with the
21 Wayne Couzens report, there was a WhatsApp group there
22 where the culture was very, you know, totally toxic
23 group of police officers who made vile jokes at the
24 expense of just every minority community they could
25 think of, as well as anyone else who was considered to

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1 be not part of their white male group and -- but I have
2 also seen examples of WhatsApp groups of that nature
3 from police officers in Scotland as well. Not -- I
4 haven't seen one which was quite as extreme as that, but
5 certainly they do exist.

6 And I think that again, technology, WhatsApp groups,
7 et cetera allow people to form groups of friends who are
8 like themselves and, again, might add further to the
9 marginalisation of those officers who come from other
10 religions or other traditions or other countries.

11 Q. And I think, another part of your report, you also
12 mention senior officers. We have heard evidence from
13 senior officers whether they have seen any
14 discriminatory attitudes and behaviours, whether they've
15 witnessed that, whether they've noticed that in their
16 work and many have said that is not something that they
17 are aware of. Is there an issue with regard to senior
18 officers that you noticed when you were preparing your
19 report?

20 A. I can't remember now. I can't remember if I did say
21 anything without references. I'm not sure if you can
22 point me to something in the report regarding the
23 attitude of senior officers.

24 Q. I haven't got the note of it here, but I will come back
25 to that.

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1 A. I don't think I have.

2 Q. From memory, I think you -- well, I'll wait and see if I
3 can find it in my notes.

4 A. Okay.

5 Q. I'll move on at the moment, if I may. I would like to
6 look at your recommendations under this section, this
7 chapter, page 158 or PDF page 158, paragraph 9.96.

8 And here this is a recommendation at the conclusion
9 of chapter 9:

10 "Police Scotland should make use of staff surveys to
11 enhance their understanding of the experience of all
12 minority groups in the service and senior officers
13 should make more use of face-to-face meetings and focus
14 groups with members of these groups to gain a more acute
15 understanding of the impacts of discrimination,
16 prejudice and unconscious bias."

17 And when you made this recommendation about using
18 staff surveys, what was your expectation about how this
19 would be taken forward? We have heard some evidence
20 about a survey.

21 A. Well, that (a) that it should happen promptly and it
22 would be something which it should be, if not regular,
23 certainly it should be being repeated from time to time,
24 because it gives the employers a good source of
25 intelligence as to how people are feeling when they

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1 might not be content to make absolutely direct
2 complaints or, you know, oral complaints to people about
3 what's happening.

4 Q. So would your expectation --

5 A. (Unclear audio).

6 Q. Sorry, I interrupted. Was your expectation that this
7 survey would be a source of data which would be repeated
8 over --

9 A. Yes.

10 Q. -- an extended period?

11 A. Yes.

12 Q. -- to provide -- again, you talked earlier about
13 identifying patterns.

14 A. Yes.

15 Q. Or hotspots or issues, is that the type of thing you
16 would expect to be done?

17 A. Yes, yes.

18 Q. Okay and then if we can look at 9.99.

19 A. Can I also add just to that answer that it's
20 particularly important in an organisation where people
21 are not always together with the same people. You're
22 outside. You only come together in the morning, get
23 their shift instructions from the sergeant and then
24 disappear off around the town et cetera. So their
25 experiences can be quite different and that in itself

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1 also can be quite isolating. So I think that was
2 another reason why that was really important.

3 Q. Right. Dealing with recommendation 9.99 first:

4 "In light of the very worrying evidence that I have
5 received, I consider that issues related to
6 discrimination and their impact on public confidence in
7 Police Scotland should be the subject of a broader
8 fundamental review of equality matters by an independent
9 organisation. That review should take into account
10 HMIC's proposed inspection of Training and Development
11 that is to concentrate on the recruitment, retention,
12 development and promotion of underrepresented groups."

13 Was it your view in light of all the evidence, you
14 describe very worrying evidence, that you heard that a
15 further review should also be carried out specifically
16 regarding equality matters?

17 A. Yes.

18 Q. And you say that that should be by an independent
19 organisation?

20 A. Yes.

21 Q. Again, not by Police Scotland itself?

22 A. No.

23 Q. Was that with a view to -- well, you have made comments
24 regarding Article 2 and the importance of independence
25 and removing that potential conflict of interest. Was

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1 that with a view to it being truly independent?

2 A. Yes.

3 Q. Perhaps we could very briefly go back to paragraph 9.53,
4 and you say:

5 "During the focus group the Review was told that
6 Black, Asian and minority ethnic officers are the
7 subject of more complaints from the public than any
8 other officers and it was felt the onus tended to be on
9 the officer to defend themselves when a complaint was
10 made. A more extensive support network and more
11 understanding from senior officers would be helpful. It
12 is also noted that currently there is a lack of Black,
13 Asian or minority ethnic officers in the Professional
14 Standards Department."

15 And what was envisaged here when you talk about a
16 more extensive support network and more understanding
17 from senior officers?

18 A. Police officers can be abused in the streets, but if you
19 come from a minority community, if you're black, then
20 you are subject to not just public derision for being a
21 police officer, but also, again, for being black and
22 the -- so they're dealing with a double aspect of
23 potential abuse from nasty members of the public that
24 other officers are also having to experience, but it's
25 intensified and even more personal in a sense and

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1 hurtful because of that.

2 Q. If the --

3 A. If I could just add, that it's a term of abuse to which

4 I've heard used that police officers when they're

5 shouted at in a derogatory fashion that they're shouted

6 at and called "black bastards" even when they're not

7 black or from a minority community, which again might

8 say something about the mindset.

9 Q. In light of the reality of the discriminatory attitudes

10 that they may face --

11 A. Yes.

12 Q. -- in their daily work, in recognition of that, do you

13 consider that a more extensive network of support and

14 more understanding from senior officers would help to

15 minimise the impact of that discrimination --

16 A. Yes.

17 Q. -- which is being faced, yes?

18 A. Yes, because we're asking a lot of these officers.

19 Q. Thank you. Can I ask you about something that's been

20 described as "review fatigue". You've obviously

21 referred to the report by Sir William Macpherson in

22 relation to the Stephen Lawrence murder. You have

23 mentioned yourself about the number of reviews that have

24 been carried out. I've talked very briefly and

25 highlighted references that you've made to the deaths in

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1 custody of various black men, Sean Rigg and
2 Christopher Alder, for example. We talked about those
3 this morning.

4 Is there any reflections that you could provide to
5 the Chair to assist him in reflecting on review fatigue
6 that we can see themes emerging from the
7 Macpherson Report that are perhaps repeated in
8 subsequent reports and issues that you have continued to
9 see in 2017 and that you mention in your 2020 report?

10 A. Hm-hmm.

11 Q. Do you have any thoughts about dealing with review
12 fatigue?

13 A. Well, part of the problem is who reads them, because
14 they go to organisations who have responsibility for
15 influencing, reporting on and employing the employees
16 and, therefore, it should really affect the way that
17 they move forward. Despite the fact that things look,
18 you know, if you look at these reports you may think,
19 well, it still looks pretty grim, I still think it's
20 probably incrementally getting better than it was, say,
21 50 years ago. Because if we look back many, many years
22 ago, it was people who were Catholic couldn't get jobs.
23 So you have these prejudices which have been evident in
24 Scottish society and culture for a number of years and
25 everyone of them has to be addressed, not only for the

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1 sake of what's happening, but historically about our
2 society and how we're developing because in the
3 future -- we learn a lot from what's happened in the
4 past, so I think there is a value from those in terms of
5 recording the historical difficulties we've had in
6 trying to give people their freedoms and rights that
7 they're entitled to enjoy as citizens and I think this
8 is part of that wider process.

9 I also think that there are immediate changes,
10 because I know the Chief Constables in the past have not
11 wanted to have organisations where there are these
12 issues and have actually wanted to find these reports to
13 be helpful to take those forward by the fact that
14 they're not having the effect within their own
15 organisation when it's someone coming from outside and
16 looking at it objectively.

17 Q. Thank you. I would like to move on to your most recent
18 report which we touched on earlier. This was from
19 February of this year and it was the first part of the
20 Angiolini Report, and let me just get the reference
21 number, it's already on the screen, it's SBPI 00632 and
22 this is part 1 of your report in this matter.

23 A. Yes.

24 Q. And I think if we turn to the very beginning of the
25 report, page III, and this is the forward, there we are,

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1 and you begin with a quote to the mother of
2 Sarah Everard and you explain that:

3 "Part one of this independent Inquiry was
4 commissioned in late 2021 by the then Home Secretary to
5 establish a definitive account of the career and conduct
6 of the individual responsible for the premeditated and
7 brutal murder of Sarah Everard. This report focuses on
8 her assailant."

9 You have however always been conscious that this
10 focus can create a perception of Sarah being
11 marginalised from the whole process, but you have in
12 this Inquiry sought evidence and understanding of the
13 action.

14 And so was this a report that was commissioned from
15 you by the then Home Secretary to look into these
16 circumstances?

17 A. Yes.

18 Q. And if we can look at page vi under the "Angiolini
19 Inquiry":

20 "The terms of reference were announced in May 2023.
21 These were informed by the work of the Inquiry in part
22 1, as well as by submissions received as part of a
23 public consultation on the terms of reference for part
24 2. The scope of part 2 includes the recruitment and
25 vetting of police officers, culture and standards in

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1 policing, and measures to help prevent sexually
2 motivated violence against women in public spaces. The
3 work for this part of the Inquiry is ongoing."

4 And am I right in saying that at some point there
5 will be a second part of this report which will also
6 include your thoughts on police culture and standards in
7 policing; is that correct?

8 A. Yes, as well as a separate report on a colleague of
9 Wayne Couzens who was serving in the same unit,
10 David Carrick, who was jailed for I think it's a whole
11 life sentence for the rape of a number of women.

12 Q. And in terms of your ongoing work, Lady Angiolini, would
13 you anticipate that this second report and the other
14 reports you mention may also contain some interesting
15 and perhaps relevant comments on police culture and
16 standards --

17 A. Yes.

18 Q. -- which the Chair could consider? Thank you.

19 A. Yes.

20 Q. And would it be asking too much to ask when your
21 anticipate that may be available?

22 A. The -- I think end of '25 and beginning of '26, because
23 of our -- as you'll see there is -- essentially there's
24 another Wayne Couzens report to do with David Carrick
25 who was a very prolific offender so there's an awful lot

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1 to look into that as well as -- but they are running in
2 parallel so certainly I think as possible, because I do
3 hope to retire.

4 Q. All right. Thank you very much.

5 Could we look, please, at chapter 7 in this report,
6 the Angiolini Report and this is on page 278 or PDF page
7 292, and I think if we look at paragraph 7.2:

8 "With time, the bad apple theory has been recognised
9 as false. While giving evidence to the Home Affairs
10 Select Committee in April 2022 and answering the
11 question, 'Is it culture of the Met that is the
12 problem?' Sir Stephen House, then acting Commissioner of
13 the Metropolitan Police Service, admitted 'it is not a
14 few bad apples. You cannot simply say that
15 Wayne Couzens and a couple of other people have done
16 something wrong. I would suggests that that has been
17 the spearhead of the problem, but there is a wider issue
18 within the organisation, which we acknowledge and we are
19 dealing with'."

20 I'm interested in your own reflections on the idea
21 of a bad apple and where that sometimes is said in
22 connection with officers who are -- who have perhaps
23 failed to meet the standards of professional behavior on
24 which one would expect them to comply. Do you have your
25 own thoughts about this idea of "it's just a few bad

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1 apples" or "it's just a bad apple"?

2 A. Yes, because it's evidential not and every working day
3 for the last two years I received a summary of all of
4 the press and television news reports which relate to
5 offences committed by police officers and it makes very
6 depressing reading. There are so many really good
7 police officers, very good men and women out there and
8 utterly dedicated to public safety. Having these people
9 working in there with them is not good for them, it's
10 not good for the public and there really is an urgent
11 need to rid policing of a significant number of people
12 who are in there for their own purposes and not the
13 public interest and who use the power that they have
14 acquired to abuse members of the public and sometimes
15 their own colleagues.

16 Q. Thank you. Can we look, please, at your recommendation
17 number 14 on the workplace culture chapter at 326 and
18 this is page 340 on the PDF.

19 A. Yes.

20 Q. And here you say:

21 "Positive culture and an elimination of misconduct
22 or criminality often excused as banter."

23 So this is page 326 of this report and it's
24 underneath 7.199, so if you keep moving up the page.
25 That's it, thank you. And it reads:

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1 "With immediate effect, every police force should
2 commit publicly to being an antisexist,
3 anti-misogynistic, antiracist organisation in order to
4 address, understand and eradicate sexism, racism and
5 misogyny contributing to a wider positive culture to
6 remove all forms of discrimination from the profession.
7 This includes properly addressing and taking steps to
8 root out so-called banter that often veils or excuses
9 malign or toxic behaviour in police ranks."

10 And in terms of this recommendation, would you care
11 to expand in any way on what you have said here about
12 the importance of an organisation becoming antiracist?

13 A. Yes, the reality is that policing requires people to
14 rely on their colleagues and so they form bonds so
15 you're looking -- if you have to go out in a dangerous
16 situation, you're hoping your workmates will keep an eye
17 out for you and support you if you get yourself in
18 trouble and, therefore, their relationships are
19 important and sometimes they are traumatised or whatever
20 and a common method for dealing with that is finding
21 camaraderie and solace in groups where they go together,
22 maybe might go for a drinks or they might have this
23 WhatsApp groups where they swap stories about their
24 families or what their hobbies are et cetera or have a
25 laugh, exchange jokes.

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1 However, the patterns that I have been seeing in the
2 current or the initial report which you'll see there was
3 the existence of particular groups which were highly
4 toxic and not bawdy humour, absolutely thoroughly
5 disgusting humour, which evidenced all of these
6 prejudices as a joke that and comprehensive bigotry
7 towards anyone who was a minority and so that in itself
8 is criminal. It's criminal behaviour. It's not just
9 banter.

10 It is a crime and the Lord Justice Clerk in Scotland
11 gave an opinion in a similar case in Scotland. It
12 wasn't police officers I don't think in that case, it
13 was a different group or it may have been, but I'm sure
14 you'll be able to check that, where again similar
15 exchanges were being made and I think that type of
16 culture, if I was a young very idealistic police officer
17 coming in to want to help and to find yourself sucked
18 into that type of groupthink at an early stage, would be
19 hugely disillusioning. It's not something that as a
20 police officer you would want to be part of or to have
21 to deal with these people during the day.

22 And if that culture is more extensive as some of
23 these newspaper reports that I see each day might
24 suggest that there are out there then we do have a very
25 big problem, certainly in my context here in England and

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1 Wales, and I'm sure it's not isolated to England either.

2 Q. Thank you. And in relation to -- obviously, you have
3 prepared a number of reports. We have looked at those
4 today.

5 A. Yes.

6 Q. In relation to all of those reports, but in particular
7 the one regarding Police Scotland in 2020 --

8 A. Yes.

9 Q. -- can you share your impression of the response that
10 you've had to your recommendations and your suggestions
11 about how the Police Service in Scotland in particular
12 could be improved, what's been the attitude to that?

13 A. Generally very accepting and very positive. I think the
14 last one I did the Police Federation were not terribly
15 enamored, but certainly I gave evidence to the
16 Scottish Parliament and to politicians who seemed to
17 fully accept the reports.

18 The problem is when people like myself are asked to
19 do these reports, you are asked to do the report and
20 once you have done the report, that's you, your task is
21 complete, so you're not -- there isn't and I think this
22 is something which people might want to consider for
23 future and his Lordship might want to consider is that a
24 mechanism for not just simply for commissioning the
25 reports which taking place, but also a mechanism for

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1 measuring how the government and other agencies actually
2 implement those recommendations which they have accepted
3 at the time, but that actually see what's happening in
4 measuring that. I think that's an important second
5 aspect of commissioning inquiry reports which I think at
6 the moment is quite weak.

7 Q. Thank you. Would you allow me one moment, please,
8 Lady Angiolini. Thank you very much. I have no further
9 questions.

10 LORD BRACADALE: Lady Angiolini, would you bear with me for
11 a moment while I check whether there are any
12 applications for further questioning.

13 Are there any Rule 9 application, one?

14 So I'm going to hear an application, Lady Angiolini,
15 so if you will just wait, the staff will liaise with you
16 and we'll come back to you as soon as I can.

17 A. Thank you.

18 LORD BRACADALE: Ms Mitchell.

19 Rule 9 Application by MS MITCHELL

20 MS MITCHELL: The one issue that I want to ask about is the
21 question of the accountability of PIRC. In the report
22 it's clear that Lady Angiolini considers that PIRC's aim
23 is to secure public confidence in policing in Scotland,
24 she says so in terms, and she also talks at paragraph
25 1417 about complaints about PIRC as an organisation or

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1 the Commissioner who they're made to, that being PIRC in
2 the first instance. Thereafter, if a member of public,
3 which must of course include families of people that the
4 PIRC investigating the death of is dissatisfied with how
5 their complaint has been handled, any complaint of
6 maladministration by the PIRC can be reported to the
7 SPO. And she points out that in order to make this more
8 robust, the ability to complain has to be highlighted
9 more prominently by PIRC and that the complaints process
10 in respect of PIRC should be made clear and explicit by
11 PIRC and any relevant information. So she clearly
12 considers that the ability to complain against in
13 relation to PIRC is important.

14 And my question to her is, in the case of Mr Bayoh,
15 part of the issue in relation to how the family
16 interacted with PIRC is that there was little flow of
17 information from PIRC to the family and this may be the
18 same with the other people where there's an
19 investigation in relation to the death of a man in
20 custody. This left them in a position where they simply
21 didn't know what was going on and, indeed, didn't really
22 know until the PIRC report was disclosed as part of this
23 Inquiry process. So the question would be for
24 Lady Angiolini, does she have any suggestions as to how
25 it could be assisted for the family to be able to

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1 interact with PIRC and what information could be given,
2 for example, to legal representatives of families of the
3 deceased? For example, would it be appropriate for
4 those representing the family to be allowed an
5 opportunity to see the PIRC report and might that assist
6 with the Article 2 obligations on PIRC?

7 LORD BRACADALE: Yes, well, I shall allow you to explore
8 that. So if you can move your positions and if we can
9 have Lady Angiolini back on, please.

10 Lady Angiolini, Ms Mitchell KC, who represents the
11 families of Sheku Bayoh, has some questions for you.
12 Ms Mitchell.

13 Questions by MS MITCHELL

14 MS MITCHELL: It's just one issue that I would like to ask
15 you about. In your report you make it absolutely clear
16 the importance of PIRC's aim to secure public confidence
17 in policing in Scotland and as part of that you
18 reference the complaints procedure with PIRC and I don't
19 need to take you to it, but for the purpose of the
20 record, it's paragraph 14.17 of your report.
21 Essentially that details, my lady, complaints about PIRC
22 and how complaints are handled and why you think it is
23 important in terms of public confidence that it is made
24 more explicit as to how to deal with complaints and they
25 should be more public about how complaints should be

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1 handled.

2 A. Hm-hmm.

3 Q. In the case of the Bayohs in this particular case, part
4 of the issue in relation to making a complaint is that
5 the flow of material from the PIRC in relation to the
6 family, particularly in this case where there's an
7 investigation of a death of a man in custody, was very
8 limited and this left them in a position where they
9 simply didn't know how things were being handled, we had
10 as you've reflected on in other cases a lengthy delay in
11 respect of how long things were taking, in respect of
12 what was being done and my question is this: Against
13 that background, do you have any suggestions as to how
14 this could be assisted, for example, could information
15 be given to the legal representatives of families of the
16 deceased, for example, the PIRC report, after it's gone
17 to Crown Office?

18 A. Yes, the -- I can understand why during the -- in the
19 investigation at the point of which presumably there is
20 still the prospect that there may be a potential for
21 criminal proceedings that you would want to keep the
22 information as close as possible in the event -- against
23 the danger of it leaking out and therefore prejudicing
24 the accused of a fair trial and the whole thing becoming
25 unravelling so I think if you have a high level, that you

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1 have a death of this nature, presumably criminal
2 proceedings would have been one -- would be one
3 potential option that would be considered regarding
4 where you have the death of an individual in these
5 circumstances and it may well be for that reason that
6 the crown would be reluctant to give evidence at an
7 earlier stage. Whether or not you're proposing as an
8 option is not something I have thought about before but
9 in some continental jurisdictions I think the defence
10 get information early on the premise that it will be
11 upheld absolutely confidentially and I refer to the
12 defence there rather than the family of the next of kin
13 in error but I think that -- I think that -- I would
14 have to think it further through about balancing the
15 risks but if it could be shown to work and that
16 solicitors were bound again with the peril of being
17 struck off if they disclosed the information, with that
18 then I think it is possible that that could be done and
19 I think it is because I think it's incredibly difficult
20 if you have a very long period of not knowing what's
21 happened. I should say though in most death cases the
22 prosecution should be in the event keeping the family
23 up-to-date with what is happening and again giving them
24 as much information as they possibly can and very often
25 there was a case that, you know, the families should be

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1 trusted to have information to be kept in private. The
2 difficulty about giving information out is should
3 someone make a confession which discloses something that
4 someone only at the scene of the crime would have known,
5 then if you had disclosed that information to third
6 parties, that could have a deleterious effect on the
7 case so there are cautions around that.

8 Q. Absent a special knowledge confession, would you think
9 that there would be merit in exploring the
10 possibility --

11 A. Yes.

12 Q. -- of encouraging greater flow of information to
13 families of people that have been killed in custody from
14 the PIRC after any report goes from the PIRC to the
15 crown?

16 A. Yes.

17 LORD BRACADALE: Lady Angiolini, thank you very much for
18 giving evidence to the Inquiry. I appreciate how busy
19 you are with your current report so I'm grateful for
20 your time. The Inquiry is going to adjourn now and the
21 team will liaise with you --

22 A. Thank you very much, my Lord.

23 LORD BRACADALE: -- to allow you to leave. We'll adjourn
24 now to Tuesday at ten o'clock.

25 (3.05 pm)

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1 (The hearing was adjourned to 10 am on Tuesday 25 June,
2 2024)
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