Thursday, 6 June 2024

(10.05 am)

LORD BRACADALE: Good morning, Ms Edwards.

Ms Mitchell.

Evidence of ASHLEY EDWARDS KC

Cross-examination by MS MITCHELL KC

MS MITCHELL: Obliged. Good morning.

I want to ask you about something I touched on yesterday, which was tropes or stereotyping. We don't need to worry about what the actual wording was, but you understand the concept that I'm speaking of. We saw in great deal the letter of instruction to Martin Graves and you asked for an opinion to be provided -- I say "you" as the crown -- providing an opinion and I will quote from it, we don't need to bring it up on the screen, saying that you want:

"An opinion on what was reasonable and justifiable, taking into account the requirement for the use of force to be necessary, accountable, proportionate, legal and ethical."

So the full remit of questions about the requirement for the use of force.

Now, yesterday we talked about "the angry black man" as a trope or a stereotype and you said that when you read the police statements, you identified those

stereotypes or tropes within that statement; is that correct?

A. I think I would say that I was aware of them when I was reading them. I wasn't necessarily saying that that was a particular stereotype or a stereotype was being given. I was aware of them as I was reading the statement.

Q. And what was that awareness then?

A. That that was a particular stereotype of the angry black man.

Q. I see.

A. I'm not necessarily saying that they were portraying that stereotype, just that I was aware of it when I was reading it.

Q. So you were aware of that when you were reading it.

What you were asking Mr Graves to do was look at what was reasonable and justifiable and as part of that, you were looking at the use of force. If the police officers were acting, in assessing the risk in front of them, taking into account Mr Bayoh's skin colour, ie if the things said in those statements, those things that you could identify, as that could be --

A. Potential.

Q. Potential, they had the potential to be related to race. Taking into account Mr Bayoh's skin colour, for example, in relation to the question of whether or not he might

be a terrorist, there was a direct link with the colour of Mr Bayoh's skin and the possibility of terrorism. And taking into consideration the tropes like "biggest man I have ever seen", "super human strength", "deranged with super human strength," "he was massive" and "the biggest male I have ever seen."

Ought that to have been explored in terms of whether or not racial bias affected the police in respect of their perceived risk when they attended and saw Mr Bayoh?

A. I think that's an area that potentially I could have explored with the OST expert. Whether he was the correct expert to explore those types of things, I'm not entirely sure, but we could have asked the questions. Whether I have got an answer that would have been outwith his area of expertise, I don't know.

Q. We saw how you took experts from one area and perhaps questions -- asked questions of other people and yesterday I think you agreed that it was a possibility that a race expert may have assisted you in the process of identifying racist stereotypes or racist tropes. Had you got such an expert report identifying racist stereotypes and racist tropes, would that again have assisted in any question about whether or not, when the police arrived, they were assessing the risk differently

because Mr Bayoh was black?

A. Potentially that was an area that could have been explored.

Q. And if that is potentially an area that should -- that could have been explored, would that have been a profitable area to explore?

A. I can't tell you that, because I don't know what the results of that would have been.

Q. Well, if this Inquiry were to assess that there were racist stereotypes and tropes being used, if we take that on a hypothetical, and there was the slapping of someone to check whether or not they're breathing, if those tied in to race issues, what then would be your answer?

A. I think that's a difficult thing for me to answer at this stage because it is hypothetical. I think I have agreed with you that that might have been something that we could have explored and I think I have said also in my evidence that we were keen to follow everything to get as much information as we could and this is an area we could have done that.

Would it have made any final difference with regard to my assessment of evil intent? I don't think so, but -- so you're asking me would it have made any difference, would it have made any difference to the end

result? I don't think so.

Q. Well, I wasn't asking that in fact. I don't need to go into that area. Really what I was wanting to take from you is, if part of the mens rea of someone thinking about something is affected by race, if they're -- if their risk assessment is affected by race, is that something you should have considered when dealing with mens rea and if not, why not?

A. I think when we were looking at the risk assessment, as much as possible, I was looking at what was in the minds of the officers so their evil intent. So the evil intent I suppose motivation and why -- if we did find evil intent, the next question would be, why, why was there evil intent? So I think when I was looking at the statements and as much as I could what was in the minds of the officers, I was looking at all that with a background of what we have already talked about.

Would an expert have helped me to put the right names to things to maybe clarify some thinking? Possibly. Would I have taken me any further than that? I'm not sure.

Q. Having identified racist stereotypes or tropes, why wasn't it appropriate to consider in terms of looking at whether or not they were responding correctly to the risk to take into consideration that they may be using,

as in your words, "the scary black man" trope?

A. And I'm not it wasn't appropriate to take that into account. I'm saying to you I was taking that into account. You're asking me if I needed an expert to help me take that into account and I said, well, we can always -- it's always good to expand your knowledge it's always good to have more knowledge, to know more things and, yes, I can agree that that might have been of assistance. It didn't stop me making the assessments to the best of my ability at the time.

Q. I see, yes. But we do understand in that regard that there's at least one possibility of an area in relation to racial matters, ie the slap to the face and the checking to see whether or not Mr Bayoh was conscious or not, that wasn't something that was on your antenna, as it were, in terms of race?

A. Yes, it was something I noticed that might not have been appropriate. Did I put a race label onto it at the time? I am being completely open with you that, no, I don't think I did.

Q. No, thank you. Moving on to the next question. The question I would like to ask you about is, expanding out the issue of investigation of crime, there was also a duty on the crown to make sure it complied with duties under Article 2 and Article 14.

Now, Article 2, read with Article 14, prohibits discrimination and what we understand and will no doubt come on to understand much more clearly when we go into this next module is that the authorities are under a duty to take all reasonable steps to unmask any racist or discriminatory motive and establish whether prejudice played a role in the death. So it's not only the issue of whether or not there was criminality, but the crown was under a duty to assess whether or not there was discriminatory motive or whether or not prejudice played a role.

Now, what evidence was given to the Inquiry or I think on the first day was you said we were going that extra mile to unmask any motives and I think that was in relation to the evidence you gave that day.

Now, what question I want to ask you about this was nowhere in any of the documents that we have seen do we see an analysis done by the crown of whether or not there was any discriminatory or whether or not prejudice played a role in his death. So I suppose the first thing is ought a piece of work to have been done in that regard, having regard to the test, to look out for these things, even if it's a note with a list of here are the things that we've identified, here is our decision in respect of that? Ought that to have been done as a

separate piece of work?

A. When you're talking about the Article 14 obligations, you're talking about the whole investigation into the death.

Q. Indeed.

A. And that includes this process.

Q. Indeed.

A. And so what we were -- the process that we were engaged in at that time was looking specifically and it's been described to you as this linear process of the criminal investigation. And as I said yesterday and the day before, it was important to investigate the aspect of race insofar as it fed into that specific part of the investigation which was the criminal investigation and that was what we were looking at at that stage.

Now, that's not to minimise the aspect of race and the criminal investigation with regard to mens rea and evil intent. That's particularly what I was focused on. The wider aspect of the investigation into race was, as I understood, to come later, either within the crown's own investigation for fatal accident inquiry or as part of a public inquiry.

Q. Well, obviously at the time when you were doing this work and looking at it original we were far away from any question of a public inquiry, there had been no

decision taken in that regard. Are you saying that when you were dealing with it, there was no formal process therefore done assessing to that stage whether or not the crown had complied with its duties in terms of Article 2 and Article 14, aside from the criminal proceedings?

A. In death investigations, whether they are criminal or there is no criminal aspect of it and it's specifically dealt with the Scottish Fatalities Investigation Unit. The Article 2 obligations on the crown are considered at each and every stage.

Q. Well, I suppose I come back to my first question. If those duties are considered at each and every stage and aren't hived off to future proceedings, like an FAI or like something else, ought that work to have been done at that stage, at each and every stage, and a note, a discussion, a document to say, can we look at whether or not there was a discriminatory motive, can we look at whether or not prejudice played a role in his death to ensure ourselves that we are properly obtempering our duties at that point?

A. I think the crown in their investigation were constantly thinking are we properly obtempering our duties, are we complying with Article 2 and Article 14, but the stage that we were at was particularly focused on potential

criminality.

Q. Indeed, but with regards to your earlier question saying we considered at every stage, I go back again to my question, would it have been a good idea to have that -- there doesn't appear to be anywhere in writing -- everyone has come in and said it was part of our obligations, we were considering it, but I don't see anybody addressing it in anything that was done. So if you were considering it at that stage, would it have been a good idea to simply have some let's address this test, let's see that we're obtempering our duties?

A. I think that was perhaps just a given. It wasn't something that we think -- we thought required to be put down in writing. In retrospect and to enable me to answer your question, it might have been a good thing to have in writing.

The evidence of the fact that we were thinking about it and considering it is perhaps, first of all, in the initial letter to the PIRC, which of course is outlined; the investigations that followed on from that, which was looking in detail into the disciplinary records of the police officers, particularly looking at any racial bias, so that was a focus of the investigation. We looked at potential other criminality that the officers may or may not have been involved in.

We considered potential information from the wider families of officers and those, again, were targeted towards looking at racial motive. So the evidence rather than it being written down in a particular document is perhaps there in all the avenues that the crown pursued right from an early point.

Q. Would the best avenue to have pursued to be to assess the language of what the police officers actually said had happened and get a race expert in?

A. That might have been an option. With hindsight, that might have been a good option. I think perhaps it may well have been difficult to identify the correct expert, but, nevertheless, it's an option that we could have taken.

Q. I think we'll come to lots more experts on race in the hearing to come.

A. I'm sure you will.

Q. Finally, as part of that, the crown are under a duty to accountability, transparency. We know these are all watch words of these things. How can we be satisfied -- for example, had there not been a public inquiry, how can we be satisfied that Article 2 and 14 has been complied with, that those tests have been carried out and complied with without us having something in writing to address that?

A. Well, my understanding was that there was to be at least a fatal accident inquiry, so that would be of the public aspect of the full death investigation. There is of course the precognition and all the details that this public inquiry now have from the crown and perhaps it is in those documents that we can see all the different aspects of the Article 2 obligations.

Q. I see what you say about the overall duty of a state to obtemper those obligations and the state at the end of the day with its bodies has to be accountable, but in a fatal accident inquiry the crown's job of its assessment is already done.

A. In what way do you mean?

Q. Well, the question, when we're looking at Article 2 and Article 14, is about has the state complied, have the organs of the state worked in making sure that compliance? I'm not quite sure the analysis of the crown waiting until a public inquiry to test their obligation under Article 2 and Article 14 holds up to analysis. I would just perhaps like your comment on that.

A. I think what with her looking at here and the Inquiry has heard that the crown doesn't follow this incremental stage currently is that we're looking at the stage where the criminal investigation comes to an end, a decision

has been made with regard to criminality. If the case had moved onto a fatal accident inquiry, the end of the criminal investigation would not have been the end of the crown's investigation. There would have been much more preparation done for the fatal accident inquiry and that is the problem that we've seen with regard to the incremental approach, because it builds in too much time between the death and the fatal accident inquiry and so that's been recognised and that further work and those further jobs, and there is a lot of work to get a case ready for a fatal accident inquiry and for the crown to present the evidence as a whole, and much wider evidence than you would find simply in a criminal precognition, and so the focus in a preparation for a case for fatal accident inquiry is different than the focus in a criminal investigation.

So that's perhaps a long answer to say I would expect, if it was going to a fatal accident inquiry, that the crown would do more work in preparation for presenting the public aspect of that inquiry.

Q. If I just may ask a follow-on point for that -- I appreciate I'm at the end of my questions, but I would just like to ask a specific point on the work done by crown.

LORD BRACADALE: Very well.

MS MITCHELL: My learned friend touched on it before.

If there was going to be a fatal accident inquiry, the crown would continue its work in relation to race and in relation to whether or not it obtempered its duties under Article 2 and Article 14. The same presumably then for a public inquiry.

A. I don't have experience in preparing for the crown in a public inquiry.

Q. Well, one of the two options would be the public venting of whether or not the state's organs had complied with Article 2 and Article 14. We don't actually see anywhere that the crown did something in relation to race post the decision about a conviction.

A. And I understand that to be to do with the authority of the public inquiry and their role, as opposed to the crown's role in a fatal accident inquiry. But I am straying into something that I don't have a huge amount of experience with because I have not experienced a public inquiry before.

Q. Well, perhaps we won't pursue that, if that's not going to be of assistance to the court. I am obliged.

LORD BRACADALE: Thank you.

Ms Edwards, thank you very much for coming to give evidence to the Inquiry. I'm very grateful for your time. I am going to adjourn briefly in order that the

Inquiry may be set up for the next stage of this hearing and you'll then be free to go.

A. Thank you.

LORD BRACADALE: The Inquiry will adjourn briefly.

(10.25 am)

(A short break)

(10.37 am)

LORD BRACADALE: Good morning. Welcome to the Sheku Bayoh inquiry. The terms of reference of the Inquiry require me to establish the extent, if any, to which the events leading up to and following Mr Bayoh's death, in particular the actions of the officers involved, were affected by his actual or perceived race and to make recommendations to address any findings in that regard. The issue of race has run like a thread through each of the hearings of the Inquiry and, at every stage, the Inquiry has explored whether events were affected by Mr Bayoh's race, and you have just heard an examination along these lines.

The Inquiry will now begin a hearing focused specifically on race. Over the next few weeks, the Inquiry will receive evidence from a number of witnesses who will address aspects of race. These will include academic witnesses, police officers, representatives of the Crown Office and PIRC, as well as

witnesses with practical and lived experience of deaths in custody where race was an issue. And the Inquiry will also receive evidence of relevant previous cases and reports. This will allow the Inquiry to examine the earlier evidence in the light of the evidence to be heard in this hearing.

We're going to begin with the evidence of Professor Nasar Meer. So could we have Professor Meer in, please.

Please sit down. Good morning, Professor Meer.

A. Good morning.

LORD BRACADALE: Would you say the words of the affirmation after me, please.

PROFESSOR NASAR MEER (affirmed)

LORD BRACADALE: Ms Grahame.

MS GRAHAME: Thank you very much.

Examination-in-chief by MS GRAHAME

Q. Good morning, Professor.

A. Good morning.

Q. You are Nasar Meer?

A. I am.

Q. What age are you?

A. I'm 44.

Q. And you are a professor of social and political sciences currently at the University of Glasgow?

A. That's correct.
Q. And prior to that you were at the University of Edinburgh?
A. Yes.
Q. Also in that role?
A. Yes.
Q. And I'm interested in how long you have held the role of professor.
A. I was appointed to professor at the University of Strathclyde in 2016 and I was a reader before then at Strathclyde, which is a step before a professor, and I was a reader at Northumbria University for a number of years, which is a step before professor.
Q. Right. And how long have you been working in this field?
A. I did my PhD in this area in 2017 and, prior to that, I was working as a researcher with colleagues in the UK and also in Europe and prior to that I undertook a master's degree in this area and between the master's degree and the PhD I worked on this area as well in Glasgow.
Q. Now, the Inquiry approached you and asked you to prepare a report specifically for this hearing and I wonder if you could look at the document for me. If we look at SBPI 00597.

Now just to explain to you that what I ask you about a document, such as your report, it will appear on the screen and you will see that in front of you and if you're comfortable, we can talk about it from the screen.

A. Okay.

Q. And at the same time, everyone in the room will be able to see that on the screens in the room?

A. Yes.

Q. But in addition there's a blue folder in front of you and that contains a hard copy, it contains hard copies of things that you may find useful during the course of your evidence and if you prefer a hard copy, please feel free to use that in any way that you find useful.

A. Thank you.

Q. And as we go through your evidence today, if there are other documents or matters you would like us to have on the screen, please let me know, I will make arrangements and if we don't have it instantly, then we will arrange it over the next break, if we can.

A. Great.

Q. So if you feel you need anything, please do share that with me and we'll make arrangements?

A. Thank you.

Q. So you recognise of course the expert report that you've

prepared at the time hearing, which we can now see the start on the screen.

A. I do.

Q. And we'll go through just the introductory parts of this. You'll see that you have prepared a contents page. It's page 2 of the PDF?

A. Mm-hm.

Q. And that goes through. We'll see at the top of the contents you give us a section about yourself and your own history, which I'll turn to in a moment.

A. Yes.

Q. The instructions you were sent by the Inquiry team, a list of datasets and reports that you have consulted and then key terms and then you go through the detailed content of your report and we'll look at some elements of this today.

A. Okay.

Q. And if we could turn to the section that is about the author. Now, before I go through some of the detail of this, professor, with other witnesses we have a statement and I ask them to speak to the statement and confirm it's them -- their statement, but this that we see a segment of and the hard copy you have --

A. Yes.

Q. -- that is the full report that you have prepared

the Inquiry?

A. It is.

Q. And it's 43 pages long?

A. Yes.

Q. And can I confirm with you that in terms of what you were asked to do by the Inquiry, you've done your best to be absolutely truthful and accurate in everything that you have said?

A. I have, yes.

Q. And if during the course of the evidence you think there's some error or some issue, would you please draw that to our attention?

A. I will.

Q. Thank you. And so for the purposes of this hearing and for the Chair, are you happy that the Chair considers the full extent of your report with the footnotes and that is your -- effectively your evidence to this Inquiry?

A. Yes.

Q. Thank you. Can we look at this page of your report which talks about you and explains your role as professor at Glasgow University and it also give a summary of some of the previous roles that you've held. I see that you were in Strathclyde. You have been in Edinburgh. You also say you held a visiting

professorship at the University of Copenhagen in 2020.

A. Mm-hm.

Q. And you also held a fellowship for Harvard University 2012 to 2013.

A. Mm-hm.

Q. And can you explain to the Chair a little about how it was that you got these fellowships and how significant are these types of things in your field, and please don't be modest.

A. They're a sign of professional accolade. They're competitive. So the Minda de Gunzburg fellowship at the University of Harvard in the Centre for European Studies is through competition and a handful of people of selected every year to visit -- to be at the University of Harvard and to undertake your own research. I don't know how many people applied for that in the year that I attended, but there were no more than eight of us who were recruited.

A visiting professorship is typically through invitation by an institution which thinks that its repetition, its work will be enhanced by collaborating with you and so they may offer you a short period of time to come and visit, use their resources, engage with their students and they will either remunerate that or they will help contribute to your allowance whilst you

are there in terms of accommodations and so on.

Q. And it would appear that these are international appointments, international fellowships, so can I presume from that that they're not restricted to applicants or consideration only in the field only in Scotland or only in the UK?

A. That's correct. They're global.

Q. They're global. Thank you. So when you say that they are competitive, that will be on a global scale?

A. Yes.

Q. And I also see that you have a number of degrees, including a PhD in sociology, which you got in 2007.

A. Mm-hm.

Q. And then towards the end, the bottom of the screen as we see it, I see you also have served as commissioner on the Royal Society of Edinburgh Post-Covid-19 Futures Inquiry 20 to 21. Tell us a little about that?

A. That was a specially convened inquiry by the Royal Society of Edinburgh, which is Scotland's national academy, which brought together practitioners, service users, researchers and policymakers to put forward an agenda for what a post-Covid Scotland should prioritise in terms of recovery and we published that after a series of consultations and then shared it with policymakers at party political conferences.

Q. And in relation to the pandemic and Covid-19 was there a specific issue that related to your area of expertise that they were interested in your assistance with?
A. Equalities and inequalities.
Q. And can you explain a little bit more about that?
A. Yes, in terms of the impact of the pandemic on Scottish life wasn't -- well, equally felt, so historical inequalities were exacerbated, for example, labour market participation or educational outcomes or experiences in public life more broadly. Where there were existing inequalities, the pandemic -- the closure and then the economic impact of those would exacerbate those historic inequalities and so going forward, imagining what a post-Covid society would look like requires attention both to the historic inequalities, but also how they would manifest in the present.
Q. So inequalities appeared in relation to ethnic minorities not just as a result of the illness of Covid-19, but also in the wider social field?
A. Absolutely. So there was obviously the disproportionate impact of Covid in terms of mortality rates and infection rates, so the event, but the historic inequalities which characterise society going into that were then replicated and coming out of it and the question for the Commission and more broadly is how can

we attend to that, without just reproducing the historic inequalities?

Q. And is that something you were able to contribute to because of your experience and your role in this field?

A. Yes, and it went hand in hand with participating with the Scottish Government with its Covid-19 Ethnicity Reference Group, which was partly present centered, it was focused on the impact of the pandemic at the time, but it was also focused on, well, what do we do next in terms of recovery and what are the areas of priority for coming out of the pandemic and how do we ensure that the racial and ethnic inequalities that we carried into the pandemic aren't merely replicated coming out of it?

Q. Thank you. And you say here you're also a member of the Antiracism Interim Governance Group established by ministerial appointment 2022. Can you tell us a little about that?

A. Ye, that was one of the recommendations which came from the Ethnicity Reference Group. One of the challenges we found in Scotland in recent years has been that there seems to be something of an institutional memory loss when it comes to tackling ethnic and racial inequalities. Partly that's a reflection of the nature of civil service change, people in particular roles who develop a skill set will move over time and with them

take their stock of knowledge. Partly it's a reflection of a loss of policy focus or being crowded out by other seemingly more pressing issues. Partly it's a reflection of not retaining up-to-date information, evidence, data.

So one of the recommendations which came of the Ethnicity Reference Group was that should there be another event like this, we need to draw upon the best practices, best experiences that were generated in attending to the dynamics that we've seen during this pandemic, but also, more broadly, establish a way of ensuring we have an institutional memory that draws together those multiple strands of government, of policy, of research, but also of practitioner experiences, people in community life doing their work.

And the Interim Antiracism, the Antiracism Interim Governance Group was a group which was dedicated to scoping out how we build something like a national observatory to achieve that and we completed our work and made our recommendations.

Q. And are those recommendations publicly available?

A. Yes.

Q. And they recommend, am I correct in saying, how to avoid this institutional memory loss?

A. Partly, among other things, also to ensure that there is

voice and participation from stakeholders who might not always be consulted, that policy is coproduced with their involvement and that the agenda setting for what the priorities should be isn't something they hear about secondhand, something they can contribute to in the making of. I do refer to it in the report.

Q. And that's something that would be available to the Chair --

A. Absolutely.

Q. -- should he wish to consider those recommendations?

A. Absolutely.

Q. Thank you. And you've also mentioned that you currently chair the academic committee of the Stuart Hall Foundation. I wonder if you could explain what that role is?

A. Yes. Stuart Hall, the late Stuart Hall was a sociologist, a cultural studies scholar, he held many academic posts, but he was also an academic committed to public education, he played a really important role at the Open University for a number of years and when he passed, a number of his friends and students thought that we should find a way and means of ensuring that legislation is carried on.

There was so much good will, there were so many students, there were so many beneficiaries of his work

that they established a foundation which has two wings. One wing is a public-facing wing which brings together practitioners, artists, policymakers, and researchers. There's also a wing which is concerned with supporting scholars and fellows who are in their doctoral training stage or their post-doc training stage and those are normally effectively funded fellowships which rest with the UK and around the world. We have had over a hundred who have passed through that now and we're actually about to start recruiting the next round, so at any one time we'll have perhaps 30 or so live fellows with us in their doctoral studies, but overall we have more than 100.

Q. Thank you. And then you said you have been elected as a fellow of the UK Academy of Social Sciences and a fellow of the Royal Society of Edinburgh and, for those who are listening, can you explain what it means to be a fellow?

A. It's a recognition of excellence in your career in your stage.

Q. Thank you. And is that -- that's not something you can just apply for and pay an annual fee, is it?

A. No.

Q. No, it's not. All right. Can I ask you now to look at, just very briefly, the next page which is the instructions, and you've replicated here the

instructions that were sent to you from the Inquiry and you've expressed that this expert report is comprised of three parts providing information and analysis relevant to the Inquiry's approach to the issue of race and it responds to the following Inquiry instructions. And in essence, have you taken the instructions from the Inquiry and responded to those specific instructions?

A. Yes, as best I can.

Q. Thank you.

A. Yes.

Q. And you've split that into three. We can see 1 and 2 here on the page, but if we can start with 1, you were asked for a definition with brief discussion of the following concepts, and any others you think may be relevant to inform the Inquiry's approach to the issue of race and there's a list there and we'll go through a number of these, but a list of topics and words and phrases that the Inquiry asked you to provide definitions for --

A. That's correct, yes.

Q. -- to make sure we were all on the same understanding.

And then number 2, an overview of the background context to issues of race and race discrimination in Scotland, and then a number of topics and aspects were

specifically set out in the instructions that the Inquiry had particular interest in hearing from you on.

A. Yes.

Q. And we can see those there.

And then 3, an overview of race and policing in Scotland --

A. Mm-hm.

Q. -- including the following topics or aspects and that included statistical evidence, observations, survey evidence.

A. Yes.

Q. Essentially three aspects the Inquiry had particular interest in and you have responded to all of those.

A. Yes.

Q. And that's essentially the body of this report?

A. It is.

Q. And then can we turn on to the next page, list of datasets consulted. Now, you've listed a number of these and you've given them bulletpoints over three pages, but for the members of the public who are listening, can you explain what a dataset is?

A. Yes, a dataset is the accumulated repository of information generated through inquiry, so we might have a government dataset, which is generic like the census,

but we might have a government dataset which is somatic, so we might focus on criminal justice system and that's accessible, anybody can look at it and use it for their purposes with the appropriate citation of where they got it from, but a dataset can also be an academic body of knowledge which is either the full study that's been undertaken as part of a project or the specific parts of the study which is just a primary data rather than the interpretation of that data.

And it can also be information which is compiled by neither governmental nor academic agents. It might be something like a set of polling data, which I have also included and referred to, for YouGov polling or Ipsos polling and so on.

Q. And these three pages cover a list of the various datasets that you've considered and had regard to as part of your work for the Inquiry?

A. Yes.

Q. And also no doubt your work more generally?

A. Yes.

Q. And is it from this data that you apply analysis and draw conclusions?

A. Yes, in addition to the reports and the academic literature which helps to frame the interpretation of the data.

Q. And, in fact, if we turn to Roman numeral VII, "List of reports consulted" --
A. Yes.
Q. -- have you also given us a detailed list, covering again a full three pages, of the reports that you've also had regard to for the work of the Inquiry?
A. Yes, that's correct.
Q. And so you have considered all of this information and are your conclusions based upon this information, both the datasets and the reports and other information that you have available?
A. That's cited in the report, yes.
Q. Yes.
A. Yes.
Q. Thank you. And just looking at the list of reports, do we see on page 8 that this includes, for example, the second last bulletpoint, Scottish Government Progress Review into Antiracism in Scotland from 2023, last year, and above that you've also looked at things such as Scottish Government reports from last year on ethnicity in the justice system?
A. Mm-hm.
Q. So that's a thematic position. Analysis of labour market outcomes in Scotland's minority ethnic population.

A. Yes.
Q. And you've also looked at CRERs, Scotland's national performance framework from the coalition in 2020, and they're one of the core participants in this Inquiry?
A. Yes.
Q. And then on the next page do we also see that you've also looked at a report from Inquest last year?
A. Yes.
Q. Called "I can't breathe: Race, death and British policing"?
A. Mm-hm.
Q. And we hope to hear from one of the directors of Inquest in this hearing in due course.
A. Okay.
Q. And you've also looked at the then Dame Eilish Angiolini's report in 2017, now Lady Angiolini, into the independent review of deaths and serious incidents in police custody?
A. Yes.
Q. And on page 10 we see that you not only looked at her 2017 report, but you also looked at her report on the Independent Review of Complaints Handling in 2020?
A. Yes.
Q. Which again was Lady Angiolini?
A. Mm-hm.

Q. And you've looked at the report of the Inquiry into the liaison arrangements between the police, the Procurator Fiscal Service and the Crown Office and the family of the deceased Mr Chhokar by Raj Jandoo?
A. Yes.
Q. And that was in 2000?
A. Yes.
Q. And towards the bottom of that page do we also see that you've looked at the Macpherson Report regarding the Stephen Lawrence Inquiry in 1999?
A. Yes.
Q. So the reports and the data is not just from the recent past few years, it's actually going back quite some way in relation to the reports that you've considered?
A. Yes.
Q. Thank you very much. Can I ask you, taking away from the body of report, first of all, it may be said that you've never been a policeman?
A. Yes.
Q. You do not have any experience or expertise in operational policing, and I think that's clear from your --
A. Yes.
Q. -- your CV. Do you consider that your lack of experience as a policeman or in relation to operational

policing that that has prohibited you or inhibited you in any way in the preparation of your report and in your ability to assist the Inquiry?

A. No, not for the purposes of this report. I have nowhere claimed in it that I have those qualities or experiences and I don't believe I require them to undertake this research.

Q. Can I say, if at any stage during the course of your evidence today you consider that you cannot answer any of my questions, because perhaps you don't have experience of policing, I'm not anticipating that, but if that does happen, would you please let us know immediately?

A. Yes, of course.

Q. Thank you. And can I ask you about a comment you made in 2017. Now, I'm going to read this out?

A. Mm-hm.

Q. I think there may be a hard copy in the blue folder for you.

A. Okay.

Q. I'm just going to read out. This is a quote which has been made public by the -- sorry, it should be in the blue folder. And to give you some context, it was in relation to a talk or a discussion. Do you have that?

A. I do, yes, thank you.

Q. And please follow -- the Chair will also have a copy with the assessors and it was at the University of Southampton and you were delivering a talk I think there on 31 March, 2017. It's -- I'm going to read out the passage and then I'll ask you some questions about it.

A. Okay.

Q. So this is in quotation marks:

"So some of the survey work I have been doing over the last few years has been the first of its kind in trying to focus exclusively on the experiences of black and ethnic minority people in Scotland. And this does show us some quite interesting findings. The first is that when asked, about one third of Black and Ethnic Minority people in Scotland will say that they have experienced racial discrimination in the last 5 years but 60% cent of the same sample that they didn't report it. So if it was in work they didn't report it to an employer, if it was in education they didn't report it to the tutor, if it was on the street and it was physical they didn't report it to the police. This discrimination isn't something which is located in one particular area it is actually quite dispersed across the social field, across the labour market participation, across access to public services, in educational and in health. And these kinds of findings

occur at a time in Scotland when there is a salience of race, I mean the case of Sheku Bayoh is illustrative because it has all the characteristics of what we would call institutional racism. This young man about my size and build was suffocated at a bus stop in Kirkcaldy and his family are now you know searching for justice in many of the same ways as the Lawrence family did. So race does matter in Scotland so it is misleading to suggest that everything is okay on that issue."

And that ends the quotation. And I would like to ask you, first of all, you are able to look at what I just read out, did you make those remarks in Southampton?

A. I made some of those remarks. The Southampton event wasn't recorded and a transcriber put together notes based upon the panel discussion, so the data ones are consistent with mine, because I sent them the slides, but the other part of the discussion isn't precisely what I said and I know that because I have gone back to my records and I have found both the digitally date-stamped script I used to speak, the digitally date-stamped slides I presented and the dated email and digitally-date stamped response to the transcriber who wrote up comments and I explained very clearly that these are not my words and this is not a statement from

me and I have shared those with you.

Q. And in relation to the comments that are made specifically in regard to Sheku Bayoh and institutional racism, and being suffocated at a bus stop --

A. Mm-hm.

Q. -- are those to what you're referring? Did you say those words?

A. No, they're not my words.

Q. Did you say something similar that is akin to what I have read out to you?

A. Yes, I was trying to establish that race was salient in Scotland.

Q. Sorry. Race was what?

A. Race was salient in Scotland and so I used a slide which was a Guardian story with an image of Mr Bayoh alongside a BBC news item on a different topic and the transcriber has taken -- I presume taken sight of the information in the cover story and filled in the gaps and established a narrative, which I have then corrected in 2017, that clearly hasn't been updated in terms of what was posted online, which is relatively recent because I spoke at the University of Winchester. I think that centre has been absorbed into the University of Southampton and they have now started to curate an archive, but they haven't put the right version of my comments up.

Q. So you corrected it at the time?
A. I did, yes.
Q. But since Winchester has been absorbed into Southampton it would appear that on older version has been --
A. It's possible. And I can quite easily ask them to put the correct version up and take it down, but having seen it and you drawing it to my attention, I didn't want to do that without explaining myself, as it were.
Q. Again, is there anything about your own view, have you formed your own views in any way about the incident relating to Mr Bayoh which would inhibit or colour your evidence to the Inquiry today?
A. I think that it's very difficult not to in all seriousness think about a topic deeply and have views based upon evidence, but I think that's different from having views that are prejudiced to understanding the evidence.
Q. All right. Thank you.
A. And I don't think I'm of the latter view.
Q. Thank you.

The final matter I would like to explore with you relates to -- as I understand it, you are a coeditor of a journal known as Identities Journal?

A. Yes.
Q. And a quote has been attributed to you within that

journal and I would like to read that out and ask you for your comments on that. So this is:

"Meer illustrates how discussions about racism within Police Scotland are a sensitive matter when a senior police officer spoke at length about the presence of institutional racism within the Scottish police force. He refused permissions to allow a record of it to be included in the conference report 2019."

And there's the citation there.

A. Yes.

Q. And one interpretation is that you have had some involvement in that?

A. Yes.

Q. You're obviously coeditor.

A. Yes.

Q. I just wonder what your comments were in relation to that quotation?

A. So there's two parts of that query, which I'm trying to understand as to the nature of the issue, because the first part is the direct quotation which, slightly inaccurately, refers to me. I don't say that and so, due diligence, I don't have the notes in front of me, but if you put the two together and you read the article which is quoted, you will see that I am describing an interview undertaken with a stakeholder in Scotland who

said that, that they've held a stakeholder session with Police Scotland and a senior police officer talked about institutional racism and they -- excuse me -- and they weren't able to put that into the formal report. So that's my description of the interview of what a stakeholder told me and that's in the article.

The quotation of that presents me as the author of that statement, which is obviously not the case, but that would be apparent if you put the two things together so I'm presuming that's not the complaint. I'm presuming the complaint is potentially that as a co-editor of the journal I'm in some way responsible for promoting a view and that's -- I mean, it's a peer-reviewed journal. We're not quite Nature, but we're about to hit 30 years. We have 500 peer-reviewed submissions a year. I am one of two co-editors, seven associate editors, 30 editorial board members. It's not in my power to publish papers that refer to me and there is, you know, nearly 6,400 references to me on Google, so it would be surprising if there weren't some in that journal.

Q. And again, do you consider that there's anything in relation to this aspect I have asked you about that would cause you to be biased in any way or impact on your independence in relation to the evidence that

you're going to be giving the Chair?

A. No, because it hasn't altered anything that I have said and done.

Q. Thank you. Can I ask you to move on to the key terms section of your report, which is page 11. It's the next page here. There with her. And I would like to go through some of these key terms with you. Obviously, all of them will be available for the Chair to consider.

Now, I see you have put them in alphabetical order, which is very helpful. Before we begin with your list, I wonder if I can ask you to -- for your thoughts on the word "black", which obviously would be the first word if it was in alphabetical order.

A. So I wrote a book on key terms and race and ethnicity in which there was a chapter on "black" and I sent it to you subsequently following the query. So it's very hard to distill in a sentence and it may reflect -- that may be the reason I haven't popped it into the key terms here, but we can -- I would say and in the fuller chapter, if I was to distill it, I would say that "black" can be an identity category that people self-define with and they self-define as being potentially people of black African descent, but black can also be a political identity.

It can be a vehicle of self-empowerment in the

context of historic racism, but "black" is also something which is relational to white and to other identity categories. For a long time it was a pejorative in the US. African Americans reclaimed it. They turned a negative into a positive through both political mobilisation through the civil rights movement and black power, but also through, you know, an anesthetic movement: think about James Brown "I'm black and I'm proud".

Were I to use it in this report, I would likely use it in the way of how people of black African descent self-define and also how people that are mobilising against anti-racism identify as politically black.

Q. In your -- the body of your report you talk about the paradox of race.

A. Yes.

Q. And I think you acknowledge that race is a social construct. Can you explain that concept for us?

A. Yes. So one way to think of race, and I think the most helpful way to think of it, is as a verb rather than a noun. Race is a doing word. We create races through various criteria and that criteria of difference might be skin colour, it might be --

Q. You have some water available. It might help. It can be very warm in this room, it can be quite dry with the

air-conditioning, so please feel free to --

A. So race is a verb, not a noun, it's a doing word. It creates a hierarchy of difference and that difference can be based upon skin colour or phenotype, it can be based upon language, it can be based upon religion and all of those things have been criteria of relevance for race in the past.

One of the key things to understand about race is that we can simultaneous use it, as we do, as a legal and as an administrative category to monitor and redress histories of racialisation. So the paradox is we need to recognise race in order to address its injustices and so throughout the report, I identify a number of ways in which race has been operationalised in legislation, in policy, in approaches which may be formal or informal, as well as in activist mobilisations for redressing racialisation. And so in addition to text box one where I try and summarise this, in paragraphs 1.2 and 1.21, I elaborate on that a little further and throughout.

Because race is dynamic, part of the challenge is to ensure that you retain a focus on the work that race does for the people who mobilise it, but also the historic injustice that that mobilisation is either trying to address or continue. So when we talk about race as being a paradox that's what I mean.

Q. Going back to key terms, you'll see the first there is "colour-blindness". Tell us what you mean when you talk about "colour-blindness"?

A. Again, I talk about this at great length in the report, but I suppose the important thing to understand about "colour-blindness" is that rather than it being a means of avoiding racism in many respects it's a continuation of it by ignoring the fact that racially discriminatory outcomes will continue if you ignore their impact. People might say "I'm colour-blind. I don't see race". Well, congratulation, but society carries on and society sees race and the impact of that race will not be diminished by ignoring what you choose not to see.

Q. We've heard some evidence of people saying "I treat everyone the same and I don't see race."

A. Yes.

Q. I'm summarising obviously a lot of evidence.

A. Yes.

Q. And others have given evidence to the Chair to say "we try and see that race and see the differences, acknowledge those differences and try and treat people according to their own needs"?

A. Yes.

Q. Is that a distinction you recognise?

A. Absolutely, and the opening section is I distinguish

between two types of equality. So equality is uniformity, which says, well, if we just treat everybody the same then we've satisfied the condition of equality and we're not discriminating, but in a society where there are historical differences, which have contemporary effects, to do so is really to reproduce those inequalities and so might take our cue from the American jurist Ronald Dworkin and try to treat people equally, which requires taking historical context and contemporary inequalities into account. He would argue in favour and he did argue in favour of affirmative action on the basis that that was an equality movement and that would be the same when it comes to colour-blindness.

To ignore what you think is race if you see it as "colour" quote unquote, first of all, if you ignore all the other ways in which race manifests and presents, but more importantly you're ignoring the entire issue of the impact of race.

Q. Thank you, as I said, I won't ask you about all of the definitions but can I move on to "ethnicity".

A. Yes.

Q. Tell us about the distinction between "race" and "ethnicity"? Is there a distinction?

A. Yes. Yes, there is. I mean the ways in which these are

operationalised in public administration brings them together and it's brought them together because there is a recognition that people aren't just modes of their oppressions. So if people have historically been racialised in negative terms, inferiorised, that isn't the entirety of the person, that isn't the entirety of the group. People will self-define in ways which will reflect more than that, reflect more than the perspective of the person who is being or the institutions or the context in which they are racialised. People have cultures, they have languages, they have collective memories and they're all imagined and reimagined, they're not static, they're not stuck, they're dynamic, but what "ethnicity" allows us to do is understand that and explain how people self-define and how those categories of self-definition change over time.

So, for example, we might find that, as well discuss later on, minorities are racialised as one kind. Whether or not they are part of that identity group they might be racialised as Muslim and, you know, Sikhs may be attacked for appearing Muslim, but Sikhs aren't the entirety of the perspective of their attackers' gaze. They are Sikh, they have their histories, they have their cultures, they have their customs and ethnicity

allows us to be attentive to that and not collapse group identities simply into the perspective of a mode of oppression.

Q. So you have said that "ethnicity" is a looser definition than race, would that be a wider definition than race or could include wider categories?

A. Yes, and I have a list of several here: language, collective memory, cultural, ritual, dress, religion.

Q. We may hear that to some extent in some reports we'll look at that ethnicity and race have in a sense been interchangeable?

A. Yes.

Q. And is that a common occurrence?

A. It is in public administration and it is in things like the census, which I'm sure we'll come to. The challenge is not to treat either as mono-causal so simply to say, well, the difference between this minority's experience and that minority's experience is ethnicity, because there's something in their culture which is an impediment or there is something in their religion which prevents them doing things, because that's to reduce them then to just being a category rather than to see how ethnicity interacts with their society and how it can be, well, subject all the shifts and dynamics as it is for everybody, including majorities who might have

ethnicities too.

I mean we talk about Irish people in Scotland. We're appealing to an ethnic membership.

Q. Right, thank you. Can we look at "indirect discrimination", which is just at the very bottom of the page. You said:

"Direct discriminations on the grounds of a protected characteristic is unlawful, for example, a job add stipulating ethnic or racial minorities should not apply."

And then you go on to explain indirect discrimination. Can you help us understand that?

A. Well, to pick up from the obvious example of "direct discrimination", if the job has a uniform policy to work, you know, and that uniform prohibits the wearing of a turban, then indirectly that prevents practising Sikhs or Sikhs who wish to wear the turban for applying that job and to some extent that reflects real life cases that have been litigated in the past where Sikhs have highlighted the ways in which formal equality legislation informally discriminates against them and, you know, they're not the only minority.

Q. So not an ad which explains Sikhs should not apply?

A. Yes.

Q. But an ad where the requirements of the job simply

preclude them from applying?

A. Yes, very much so.

Q. Thank you. Can we look at "Islamophobia". Tell us about that, please.

A. Again, I try to elaborate at length in the report how a notion of Islamophobia should be read and understood in ways in which we talk about racism. Just as we accept that "antisemitism" describes a particular history of racism against people who are Jewish, and that hasn't stopped them being Jewish in different ways of a different context in different times, there are specific tropes within antisemitism about power, hierarchy, hidden motives and so on.

Well, similar things are true of Islamophobia. Muslims have different ethnicities, different apparent racial characteristics of a different context will be discriminated against on the grounds of prevailing tropes which may see them as a security threat, may deem them to be a troubling or a problematic minority, may see them as being disloyal or, more broadly, as a problem within the population. That's not on the basis necessarily of their ethnicity or their racial characteristics, it takes into consideration or it's mobilised on the grounds of their Muslimness, which is why I can say that Islamophobia is akin to -- well, is a

form of racism.

Q. Thank you. A word that is not here but is used and I wonder if you can help us define it "intersectionality"?

A. Yes.

Q. What is that?

A. Again, there are multiple ways in which one can think of "intersectionality", but principally it talks about the ways in which different protected characteristics come together to produce a distinctive inequality.

I think a pioneer of the concept was Kimberle Crenshaw, an African-American legal scholar, who identified the ways in which black women in America were discriminated against on the grounds not of their gender solely nor of their blackness solely, but of the way in which those two protected characteristics came together. It was at that intersection that they were, in her case, in that example, prevented from applying or reapplying for their jobs at the Ford motor factory in Chicago. But we have used it in this country and the Equality Act 2010 was the first act, as I understand it, which tried to draw together the intersecting possibilities of inequality from all of the other nine protected characteristics. I think it's a concept which is yet to be properly mobilised in terms of understanding the ways in which different protected

characteristics come together in Britain, but the ground work is there.

Q. So examples could be the -- in terms of protected characteristics gender and race?

A. Absolutely.

Q. Could --

A. Age and sexuality.

Q. Age and sexuality. Religion and race?

A. Absolutely.

Q. It could be a combination of two different protected characteristics?

A. The intersection between them.

Q. The intersection between them. Thank you.

Let's move on to the next page. Could you give me a moment, please. I'm conscious it's now half past 11.

LORD BRACADALE: We'll take a 20-minute break at this point.

(11.29 am)

(A short break)

(11.54 am)

LORD BRACADALE: Ms Grahame.

MS GRAHAME: Professor Meer, we were talking just before the break about the keywords --

A. Yes.

Q. -- that you had identified in your report, and I wonder if we could have that back on the screen. I was just

about to move on to page Roman numeral X11. There we are. Again, I would just like to select a few words from this page to ask you about in relation to racisms. Now, you have broken this down and if we could have that maybe just slightly higher up on the screen, you'll see that there are four bulletpoints, "interpersonal racism", "structural racism", "institutional racism" and "systemic racism". Now, I know that you're going to come on to this later, but I wonder if just briefly at this stage you could explain to people why you have broken it down in this way.

A. Yes, so the first thing to say is that racisms interact, they're not mutually distinctive; to the contrary, they are interdependent, they rely upon one another, but they can operate at different levels but they can also operate through different forces I suppose.

So "interpersonal racism" is the one we're all the most familiar with. It might be covert, overt. It may be something that is expressed in language or behaviour, words or deeds.

"Structural racism" starts to get a bit more difficult to understand, but I suppose what "structural racism" is able to help us grasp is how racism reproduces. So when we talk in "institutional racism" about the role and function of stereotypes, well, it's

"structural racism" which helps us to understand where the stereotypes have come from and why they reproduce and in the slides we can elaborate on that a little bit further, but there's a need to distinguish it from "interpersonal racism".

"Institutional racism" in many respects might be understood as the operation of types of "structural racism" within particular institutions, though given the similarity of a number of institutions, their shared dynamics, their, you know, statutory obligations, the publics that they serve, it's quite an expansive concept. It is one that is portable. So when we talk about the Metropolitan Police and the MacPherson Inquiry and "institutional racism", we can find that is also a function in the NHS and in different ways, but there's a commonality between it.

And then "systemic racism" I describe in the report and we'll come to again later, partly describes well, it's the reach of it, you know, so it's the way in which it shows that there's this depth to the racism within an institution or an organisation or something else, but it's also about the ways in which those link up across society. So if we want to understand something that's described as "a school to prison pipeline", we need to connect the ways in which some young people from ethnic

and racial minorities are treated in the education system in ways that make them more subject surveillance and bring them into contact with the criminal justice system and the particular interactions they have with the criminal justice system leads to often custodial sentences. So that chain can only be understood through a systemic approach by connecting the different institutions and different parts of society. Yes.

Q. Right, thank you. I know we're going to come back to this in some detail and I'll ask you for other examples then. Can I ask you, in relation to these definitions in these different categories, if it was suggested to you that your definition of "systemic racism" may appear more apt to describe "structural racism", do you have any response to that?

A. No, and I think it will probably explain itself when we talk further on this topic, but there's a way in which we can use terms in a lay fashion, but there's a way in which these are categories of analysis. They're what are sometimes called "ideal types" and then how they're adopted and used in different contexts will vary as categories of practice and it may be that there's some tension there, but not for the purposes of this report and what I want to say in terms of speaking to it, no.

Q. And if it was suggested that really all the levels of

racism that you identify here effectively make up "systemic racism", and the other elements of racism are part of that, do you have any comment to make?

A. Well, they can, but they can also operate in ways which are more -- in narrower ways. So when we talk about "systemic racism" a little later, I mean everything happens within a system, so, yes, certainly the system is the whole, okay. But that doesn't help you explain the interactions or the micro-aggressions or the particular dynamics of why one form of institutional racism functions in this way and why another form of institutional racism functions in that way. You need something a bit more sensitive to be able to analyse that, but they're not in contradiction and we can elaborate with some more examples as we go.

Q. For the purposes of the Chair and his understanding of your report, if you refer to any of these particular types of racism, should he look at your definitions in the keywords?

A. Yes, I think so.

Q. And take that?

A. Yes.

Q. Thank you. And you mentioned the word there "micro-aggressions."

A. Mm-hm.

Q. I'm interested in what they are.
A. So micro-aggressions come from trying to grasp how people in particular settings, so they could be institutions, but they also could be outside of institutions, express racialised hostility without using racist terms. So they may be, I don't know, crowding people out of social gatherings, writing emails in any way which doesn't recognise one of the recipients, talking in ways that in and of itself might not be described as racist or hostile, but is in on a topic which is perhaps inflammatory or hurtful to some groups or to people in that email chain. So it's a micro-encounter. It's a thing which is a little harder to name and say, hey, this is so self-evidently obvious that you have done and said this, but in the context of particular cultures and particular histories and particular dynamics, it's very apparent, to the people on the receiving end of them anyhow.
Q. So the addition of "micro" to aggressions should not diminish the significance and the harm that these can cause to the person who's on the receiving end?
A. No, they're part of what you might characterise as bullying.
Q. Thank you. Continuing with your keywords here, "racialisation". You've mentioned that already and you

talk about "people become racialised as members of racial groups". Could you expand on your understanding of that word?

A. So if we think about people who self-define as white in Scotland today, you'll find people who are in that category in 2024 who wouldn't have been in that category in 1924, because they wouldn't have been racialised as part of a white majority, they would have been racialised as "other" and so white Jewish people in Scotland or white people with Irish ethnicities or white people with Eastern European identities have been historically racialised out and now I would argue racialised in in a way which is part of the majority.

What that suggests then is the process of racialisation shifts over time in relation to certain social and political dynamics and what is true for majorities is also true for minorities. So when we talk today about Muslims, we are talking about a group that was relatively overlooked within the racial discrimination arena in the 1970s and 80s to becoming a minority which is now endowed with all the characteristics of, you know, a racialised group and that's happened in my early adult lifetime over a period of 20 years I would argue in the UK.

Q. Thank you. And the word here in the keyword section is

"racialisation", the word "racialised" appears in the definition. Can you explain is there a distinction there that you wish to draw?

A. No, there isn't. I mean racial -- again, I suppose we could see "racialised" is the verb, racialisation is the kind of the meta-category, but they're describing the same thing. They're describing a process of turning a group into a quote, unquote "race" through various criteria of relevance which are deemed to be inferior or a problem.

Q. So one is a verb, one is a noun and you're describing the process.

A. Yes.

Q. Thank you. "Social disaggregation"?

A. Yes.

Q. Now, "disaggregation" is a word within your report?

A. Hm-hmm.

Q. And I wonder if you can explain to those listening what you mean by that, "social disaggregation"?

A. So again, for the purposes of data analysis so we can have a large scale survey as people's experiences of -- people's experiences of the NHS, and on the basis of that say, okay, well, look, people have said that they raise concerns about the time it took them to see a clinician, but when they saw a clinician their treatment

was generally positive and they were broadly positive about the aftercare. Okay that's a generic survey.

What will hide is that there will be differential experiences within that dataset for different groups. So it may be the case that some groups took longer to be seen, other groups of the same group had a more negative encounter with the clinician and that they saw some of the group didn't have the degree or the appropriate aftercare and we can't know that from just treating the survey as a blanket. We need to disaggregate it and break it down according to experience of particular groups and that's typically done with the categories that we use in social and public administration, so the census categories or equivalent.

Q. So when you talk about "disaggregation" in your report you have carried out that process of analysing the underlying data, if that's available?

A. Yes, if it's available, and I have said on a number of occasions I have indicated where it is available and where it isn't. So there are statistical standards that all UK public authorities and agencies should try to adhere to. There is variation between that, but often you'll find that there's a dataset for the majority, and then there's the experiences of the non-majority put together, which is still useful because it tells us

something, but it's not as nuanced or sensitive to being able to disaggregate further in terms of specific experiences for particular groups. Where that's available or possible to be done, I have done that.

Q. And where that data is not available, what sort of problems does that cause for someone in your position trying to analyse differentials?

A. We can't.

Q. Simply can't?

A. Yes.

Q. Can we look at the next word and this is word that also appears in your report and we've also heard reference to this, so "stereotypes", tell us a little about "stereotypes"?

A. Yes, and again, it's a term that I think we'll come back to in more detail, but, simply put, "stereotypes" is the ways in which we as individuals, but more broadly than that as a society, can use cues or shorthand to describe groups on the basis of certain characteristics.

Now, that stereotype sometimes might be deemed positive. You know, we might say this group is renowned for being, you know, great at computational science. More often than not, they're negative and we associate groups with blanket assumptions about their traits and dispositions or likely tendencies to present certain

kinds of problems, be that criminality, be that violent threat, be that dishonesty or something else.

Q. And can stereotypes be based on protected characteristics?

A. Yes, often, routinely. Race and ethnicity is an important one, but so is gender, so is able-bodiedness or disability. Stereotypes about age are routine and common. The interesting question is, in terms of race ethnicity, where do stereotypes come from, how are they reproduced, how do they shift and change over times.

When I was growing up in the 1980s "Asians" were seen as quite passive and meek. You know, my kids grow up in the context where their name may carry a threat in the public imagination because they're deemed to be potentially Muslim or Islamic or something. So that stereotype shifts, but it still functions in the same way in giving a shorthand for a potential problem associated with a group.

Q. And I'm interested -- you've used the word "shorthand" and I see in your definition here you use the phrase "they typically simplify and expedite perceptions and judgments". This idea of expediting and shorthand, can you just explain what that means?

A. That comes from some of the literature in the report which talks about the ways in which stereotypes are

functions of social cues which shorten the processing time required to make decisions simply so that's the expedition, because you're already walking around with a mental frame in which you're able to place people within particular categories which give you a set of potential instructions on how to proceed.

Q. Can you help the Chair understand how quickly people can make judgments or decisions on the basis of a stereotype?

A. I think that's probably going a little bit beyond my expertise in terms of the report, but the secondary literature and what I have referred to suggests it's instantaneous. I mean it's not even necessarily a conscious thing. We use these as mental cues to be able to govern our behaviour and we may not be conscious that we're doing it.

Q. And you use the word "conscious" or "unconscious"?

A. Yes.

Q. We've heard about the concept of "unconscious bias"?

A. Yes.

Q. Have you some awareness or expertise in that area?

A. Yes, no absolutely. "Unconscious bias" is a feature of the landscape and, you know, there's in the reports a number of studies which show that people will act on the basis of an assumption that they have that they're not

necessarily aware of, but that assumption, you know, is one which is populated with a distortion of what is the case. I mean that's the bias. You can tease that out in studies and one of the studies that I'll speak to does that.

Q. So would it be possible on that basis for someone to say be asked "Did you act on the basis of any bias?" and for them to say "no" and for that person to be genuinely believing that they had not acted in relation to any bias?

A. By definition, because it's unconscious, unless they have taken a moment to reflect, educate themselves, learn, take soundings and formed a different opinion in light of that, but unconscious bias proceeds precisely because we're not aware that we carry it.

Q. Thank you. Can we move on to the final word here and this is a word that also appears in your report it is the concept of "weighting"?

A. Mm-hm.

Q. Now I wonder if you can explain to those listening what that is all about.

A. So "weighting" is a statistical technique and we use it to make sure that there's validity within a sample. So if I wanted to tell a story about Scotland and I surveyed the population and in the demographic

information it told me, well, okay 70 per cent of this sample is from Glasgow, if I reported the findings of that survey as is, I would effectively disproportionately report the experiences of people in Glasgow rather than the people in Scotland. It wouldn't take in the breadth of the nation. So have to apply statistical weights to that, which literally do what it sounds like. It drags down the Glasgow part and it models or replicates the non-Glasgow part, so it gives you a more balanced sample. I mean there is probability ways, frequency ways, analytic ways. There statistical techniques where it's done after the data has been collected to try and make it more representative I suppose.

Q. Thank you. And where that's been done, you will recognise that in your report?

A. Yes, absolutely.

Q. Thank you. On matters that are not strictly within your -- this part of your report, but do relate to language, can I ask you what comments would you have about the phrase "antiracism"? Now, we have heard a number of people talk about "antiracism". Do you have any comments on that?

A. Yes. So -- so simply put, "antiracism" would be the advocacy of changes in society which promote racial

equality. Now, like all concepts, it will have multiple strands to it. It will have a minimal and a maximal kind of range. Much like "race", we might think of it as an administrative category through which we can monitor and, therefore, ideally redress historic and contemporary injustices which come from racism and racialisation.

We can think of antiracist legal process that have proceeded through group-specific instruments and be introduced according to the social and political climate of the day. The history of race relations legislation partly is an illustration of that. More broader than that, you can think about it as a social movement, you know, Black Lives Matter, which is a justice movement which makes a moral claim, moral argument for a world in which, well, as the title of the movement suggests, black lives have equal worth, black lives matter. They're not just statistics or numbers.

There's a quote from Martin Luther King in the report, I think it's from footnote 18, where I try and show the historical circularity of that argument in some respects that we're making similar arguments today that he was making in the 1960s, which speaks to his prescience, but also to the lack of progress in some respects I think.

Q. I think we'll come back to that issue. There's one other aspect before I move on. Can I ask you about paragraph 1.4.1 and this is in the a section of your report on page 8 regarding Islamophobia in Scotland. So it's page not Roman numeral 8, it's within the body of your report and it's 1.4.1. There it is on the screen.

"Islamophobia in Scotland" and you talk here about a survey from 2015 which looked at the words and phrases respondents most associated with the term "Muslim"?

A. Mm-hm.

Q. Which was "terror, terrorist, terrorism" and that was the connection ahead of all other terms and those other terms included both "mosque" and "Koran" and you've commented on the negative association there and -- with Muslim and explained that in your report.

If it was said that to any extent this was -- this categorisation and percentage was misleading, because I think you say in relation to that that the majority of most -- words most associated with the term "Muslim" were "terror, terrorist, terrorism", which would be considered negative connotations, but if it was said that more than 75 per cent used nonnegative words, would you have any views to express in relation to that?

A. Yes, it's mistaken. I have the poll in front of me and I went back and recounted to make sure that I wasn't

imaging things so.

Q. And this is based on a poll which you have got in the footnotes?

A. Yes, it's a YouGov poll. So just on the empirical claim that it's more than 70 per cent, it's not. So if you do -- if you go back and you add up all the negative words or phrases, then get to 37 per cent, so the 75 per cent claim is untrue, but that really misses the point of the poll. The poll isn't saying what "give us your 40 most prominent words you associate with Islam". It's saying "give us your three most prominent words". So "What are the three most prominent words you associate?" and that's what the poll is trying to engage, the most prominent words, because it's a poll about salience, not about range and every possible statement that might be made about Muslims. So that's the purpose of the poll and that's the context in which I have quoted it.

Q. And that is the three most prominent words, "terror, terrorist and terrorism"?

A. Yes.

Q. Thank you. Now, in the remainder of your report, if we move on back to figure A, which was just after the Roman numeral X11, we'll see a diagram where you've given Scotland's modern racial history and we'll come on to that shortly and that covers the period 1999 to 2023 so

a period of over one hundred years in Scotland and then we have -- the body of your report is split into three sections and is that aligned to the instructions that you received?

A. It is, yes.

Q. So part 1 is on page 2, if we move on to the next page, please. So part 1 of your report is entitled "Equalities, sameness and difference."

A. Yes.

Q. And part 2 of your report is on page 17 and that is described as "Attitudinal experiences". That's page 17. Oh, sorry, you have gone past it. Sorry I think we're at cross-purposes here. It's 17 on the actual report and not on the PDF itself. Sometimes there's a difference between the PDF page numbers, which are shown on the screen. There it is. "Attitudinal experiences and outcomes" and that's part 2 of your report.

And part 3 of your report is on the report itself, we'll see the numbers at the bottom right-hand side, and it's page 31. There we are. And part 3 is "Composition, outcomes and perceptions of policing."

A. Mm-hm.

Q. And for the purposes of giving evidence today, the Inquiry team asked you if you would be willing to prepare some PowerPoint slides --

A. Mm-hm.
Q. -- to draw out some of the concepts that you have explained in considerable detail with footnotes in your report. Now, the report itself is available to the Chair in full.
A. Okay.
Q. But what I would like to do today with you in evidence is to go through your PowerPoint, if I may, and you have provided us with 23 slides or 22 slides. And I wonder if we could that on the screen, please.

So this is WIT00100 and we see there the opening first page which has your name and your role as professor at the University of Glasgow and your qualifications and a very nice picture of Glasgow.

And if we could move on to page 2, please and what I would like to do is to go through these slides in turn?
A. Yes, okay.
Q. And as we go through these, I would like to ask you primarily just to talk through the slides and explain what we can see and how these would help the Chair. And we'll go through maybe some sections of your report if that's required.

So this is slide 2. It's entitled on the left-hand side "Scotland's modern racial history" and it covers the period that we see on the right-hand side from 1919

to 2002, so it's a part of figure A that we just looked at in your report. And I wonder if you could tell us what we can see here in this timeline.

A. So the timeline adapts and updates one which was first produced in the Scottish Government's Race Equality Framework Document published in 2016 and the purpose was really just to identify and spotlight some milestones. I have titled it "Scotland's Modern Racial History", because it begins with an episode of racially motivated violence against black sailors queuing to be hired in the yard of a mercantile marine office in James Watt Street in 1919.

There's a historian, Jacqueline Jenkinson, and she describes this episode in a book called "Black Sailors on Red Clydeside" and notably she talks about the role of racist stereotypes and myth and hearsay about black sailors taking white jobs and records that only black sailors were arrested and taken into custody, but the point in signalling that here is that Scotland has a very long and rich racial history and one which is often I think forgotten when we talk about racism in the UK, typically discussed as an English problem, and Scotland's story within the British Empire and Glasgow as a second city of empire is often lost in that. That is why I have begun it there and with that title.

Do you want me to just move spotlights and key things or do you want to identify some things?

Q. I'll stop you when I want to identify particular things.

A. Okay. So we have what is typically the moment of the arrival of the empire in terms of SS Windrush, which is seen as being something which happening in England, but people from that cohort, that generation, came to Scotland to settle, made their lives.

The policy process and the programme of thinking about racism seriously doesn't really begin until the late sixties, mid sixties, late sixties, in terms of incremental legislation, UK-wide race relations legislation, which I set out in text box 3 of the report starts to prohibit direct racism in public places and then starts to extend those protections beyond public places in areas of housing and in employment and that's all relevant because really the accumulated legislation is decanted into the Scotland Act in 1998, the main instrument being the 1976 Race Relations Act and as that's subsequently amended following the Stephen Lawrence Inquiry.

What I haven't got on here, and would be of relevance, is the Scarman Inquiry conducted in 1981, which followed a number of periods of civil disorder and violence really in a number of English cities, in

Toxteth, Liverpool and St Paul's in Bristol, Manchester in Moss Side and so on and it all culminated in London in 1981 in Stapleton Road with an infamous case of where there was an illegal raid on a house that the Independent Police Complaints Board subsequently concluded, I quote, "showed an institutional disregard for the law" in which the Metropolitan Police paid compensation.

But Scarman was important and interesting because he put a great deal of stock and trade in a programme of antiracist training, anti-racist awareness within the Metropolitan Police, but it was criticised. It was criticised from the start, because people felt that the reforms that he was pursuing were patchy, they weren't wholly introduced, chief constables exercised a great deal of discretion in not taking them up, that trainers were inadequately prepared, insufficiently resourced, that programs lacked senior managerial authority and rarely were they integrated into a wider policing programme and, in retrospect, in 1987 Lord Scarman regretted this and he talked about his disappointment in the lack of implementation and went on to say and, I quote, "He wished he would have been more outspoken about the necessity of affirmative action to overcome racial disadvantage" and that was him writing in 1987.

So there's a prior history of thinking about race through public inquiries in legislation, through case law and then through a narrative about collective membership up until the point of devolution and it's really -- sorry -- it's really on devolution that Scotland at the very, you know, at the very foundation of its restoration or the introduction of Parliament accepted the recommendation of the Stephen Lawrence Inquiry in 1999. You know, this was a very significant undertaking at the point at which the Scottish Parliament is established, the Scottish Executive is underway, and this came with a number of complications, not least that it had statutory implications for what the legacy forces and then what became Police Scotland and, I quote:

"That the full force of race relations [this is the recommendation] should apply to all police officers, namely that chief of police officers should be made vicariously liable for acts and omissions of their officers."

The Lawrence Inquiry also in its recommendations and in its acceptance by the Scottish Executive in 1999 offered a definition and an expectation that all public authorities would approach their engagement with ethnic and racial minorities in a way in which avoided or

refused a colour-blind approach and it also foregrounded the importance of multiagency working across different sectors. So it's striking because, you know, at the dawn of the Scottish Parliament you have the Scottish Executive which wholly accepts the recommendations of the Stephen Lawrence Inquiry which attend to many of the issues that repeat themselves subsequently.

Q. So in the late nineties, by this time there were -- you've highlighted two pieces statutory legislation in relation to race relations, the Scarman Report had made a number of recommendations. Am I taking it -- you talked about implementation, was there a recognition after the Scarman Report that those recommendations hadn't been fully implemented by that time?

A. By Scarman himself.

Q. By Scarman himself. And then when we see the Human Rights Act 1998 and then the Scottish Parliament in 1999, that was at the sort of beginning or resurgence of the Scottish Parliament --

A. Mm-hm.

Q. -- reconvened?

A. Yes.

Q. They endorsed the MacPherson definition; is that the definition of "institutional racism"?

A. Yes, in addition to a number of other, not so much definitions, but recommendations which had profound implications for how to govern and how to engage with ethnic and racial minorities and what the statutory obligations should be understood to mean.

Q. Right. And that was to ensure that all organisations avoid complacency?

A. Yes.

Q. And guard against institutionalised racism?

A. Mm-hm.

Q. And that was said by the executive then, the Parliament, to ensure that that would be done?

A. Yes, that's correct.

Q. And that was on the back of the Macpherson Report which was also from 1999?

A. Yes.

Q. And I know you will come on to the matter, but as I understand it and you say here, the Macpherson Report was published in 1999?

A. Yes.

Q. With all the recommendations?

A. Yes.

Q. And then looking forward from 1999, explain what we see at the end of this timeline here that ends in 2002?

A. Well, not long after, we have two inquiries conducted

into the murder of Surjit Singh Chhokar. Three men were acquitted of his murder in two separate trials in 1999 and 2000 and, in some respects, the case is seen as a test really of Scotland's criminal justice system on the grounds of equal treatment of ethnic and racial minorities and it's a test that Scotland and its criminal justice system at the time is seen to have failed.

The inquiries that were conducted detailed numerous errors in the police investigation in the improper and traumatising treatment of the family and the failures in the crown prosecution. So these failures included evidence of institutional racism, notably in the failure of the police to consider racial aggravation as a factor in their investigation of the crime, but also the unpreparedness of police and the prosecutor -- Procurator Fiscal to respond readily to the cremation of Sikh funeral customs. There was also criticism of the failure of the Procurator Fiscal's Office to recognise that a person, such as Mr Chhokar, Surjit Singh's father, could have had difficulty in understanding and following the case in English and required translation services.

There were other criticisms about the brief that the reviewing officer was given being vague and unfocused

and that the review itself into the investigation lacked rigour, but that issue of discounting and failing adequately to investigate the question of racial aggravation is one which repeats itself later.

Q. And you've talked about that in relation to Chhokar and that was from 2001, I think you say on the timeline.

A. It is.

Q. A failure to investigate racial motivation?

A. Yes.

Q. And in relation to Chhokar, I think you have provided some detailed information within the body of your report, about Chhokar, that the Chair can consider.

A. Yes.

Q. And I think we see that on page 10 of your report. I don't need to go to that at the moment, but you have described that at paragraph 154 and beyond.

A. Yes.

Q. Ongoing, and we will come back to that.

So that was in 2001 and then in 2002, what do you say here about the actions of the Scottish Government at that time?

A. So the --

Q. 2002.

A. Sorry, it's 2002. Yes, so there's a period of what you might call policy sparsity and then policy density in

terms of Scotland developing bespoke apparatus to speak to its own context and conditions, rather than relying upon UK-wide approaches. Now, this is obviously partly a logical, given that there wasn't a -- that the Parliament, as you said, was reconvened in 1989, but it's also, I think, a reflection of thinking that race and racism is not a problem in Scotland that there wasn't a sufficient critical literacy within the governance of Scotland within its public administrations up until this point, but you begin to see it burgeoning. So that's the first distinctive race equality scheme published, given that at this point Scotland therefore has a series of public policy areas for which it is primarily responsible under the devolution settlement.

Q. And what is a race quality scheme?

A. We might call it "a race equality action framework", a set of objectives that the -- what we know call the Scottish Government identifies as targets and then goes back from that to think about how to implement them, how do we get there, what are the priority areas, what's the resource required, how do we find a path, what are the agencies that we need to bring on board? At this point, there wasn't a great deal of consultation, as in what are the communities we need to work with? It is still a very top down approach.

Q. What do you mean by that?
A. I mean it's a decision made centrally and presumably expected to be filtered downwards, rather than coproduced in dialogue, feeding in from the experiences of the communities that they're serving or trying to serve.
Q. And what are the limitations of filtering downwards as opposed to engaging the community?
A. Validity, a lack of understanding of whether or not you -- what you think people need and what they need and, ideally, you have both sides. You have, you know, policy being crafted, engineered, but then fashioned and revised in dialogue with its clients or users or communities who will be subject to it.
Q. So views and recommendations being imposed on people, as opposed to finding out what the people actually want?
A. Yes, I think so.
Q. And what would work for them?
A. Yes.
Q. And this part of the timeline covers over 80 years and we see it's towards the end we have the Scottish Parliament endorsing Macpherson, within a couple of years the death of Mr Chhokar and the Raj Jandoo Report and then the first race equality scheme published in 2002.

Let's move on to the next slide and this covers a period from 2007 and it says there 2023, so it's a much shorter period in time and there are a number of entries. Beginning at 2007, could you talk us through that section?

A. Yes. So this is when I think you start to see what we might characterise as policy density, partly a reflection of what's going on at the UK level in terms harmonisation and the kind of patchwork approaches which are trying to bring together the different pieces of equality legislation historically and the different commissions which accompanied that equality legislation, but it's also a reflection, I think, of Scottish administrations becoming a little bit more confident, a little bit more literate, a little bit more engaged with the communities that they're seeking to serve.

So the Equality and Human Rights Commission is formed, which brings together all of the other commissions which supported the then protected characteristics, because new ones are obviously added later in the Equality Act. There's some dispute over whether or not this would diminish or hierarchise certain characteristics, you know, would race be to some extent laundered out of a priority. That's still an open dispute. I think it probably has been the case

that some equality characteristics and grounds have lost the focus and the momentum from a nongovernmental body that they enjoyed under their commission prior to that, but nonetheless it's an anticipation of the harmonisation of legislation in the Equality Act.

Scotland and Scottish administrations are again trying to renew, refine their race equality schemes, their approaches to this within the broader configuration of devolution and that really carries on to 2010 where the Equality Act brought together, you know, what was something of a mammoth collection of legislation, pieces of -- equality instruments that have been accumulated and ideally level them upwards through a kind of a patchwork approach, which then established equality duties and the Equality Act to some extent --

I don't know whether or not the Equality Act necessarily was engineered in a way which expected Scotland to add its own duties, but there were three what you might call general duties which came with the Equality Act in 2010 and they were to eliminate unlawful discrimination, harassment, victimisation and any other conduct prohibited by the Act. Secondly, to advance the equality of opportunity between people who share a protected characteristics and people who do not share it and, three, foster good relations between people who

have a shared protected characteristics and people don't have it.

Now, in many respects that's the public side or the positive action side of equality legislation. The UK doesn't have anything akin to affirmative action, but it has capacity to be proactive and the general equality duty was seen is that. That leaves open a whole load of other areas which I think Scottish administrations wanted to take focus on. So we have then the introduction of Scottish-specific duties, of which I think there were eight.

Shall I run through them briefly?

Q. Yes, please do.

A. That was, firstly, to report on the mainstreaming of a general equality duty, but then to publish equality outcomes and report progress, specifically on the areas devolved to Scotland, you know, health, education, criminal justice and so on. Assess and review policies and practices, gather and use employee information, public statements on equal pay, consider award criteria and conditions in relation to public procurement, publish in a manner that is accessible and have a duty on Scottish ministers to publish proposals to enable better performance. So there were eight Scottish-specific duties which were introduced in 2012.

Q. And some of that was about gathering data?
A. Yes.
Q. Which was then should be made publish?
A. Yes.
Q. So that academics in universities such as yourself could then analyse that and work with that?
A. And that the administrations and the authorities themselves should be holding themselves to account and showing how they're making progress in achieving the objectives they set themselves in the race equality schemes, but also what is statutory in terms of being required of them.
Q. So the data could be assessed?
A. Yes.
Q. It could be monitored?
A. Yes.
Q. Audited?
A. Yes.
Q. And they could see if they were achieving the goals that this legislation was set out to achieve?
A. Yes.
Q. And in relation to prohibited characteristics --
A. Yes.
Q. -- and discrimination --
A. Yes.

Q. -- against people? And so moving on from that, we see at the top of the page you've talked about the public sector equality duty. You've talked today in your evidence about general duties. We've heard about a public sector equality duty. Is that the same type of thing?

A. Yes, yes.

Q. And then you've talked about the Scottish-specific duties. I see in 2011, however, just before that entry on your timeline that there is mention of Simon San, and I'm interested in that. I think you talk about that on page 11 of the body of your report at paragraph 1.5.6, and you say that:

"A decade after the Jandoo Inquiry, a complaint inquiry in 2011 identified a collective failing in Lothian and Borders Police with respect to the improper investigation of a fatal violent attack on a 40-year-old man of Chinese origin, Simon San."

And that was in 2010.

A. Hm-hmm.

Q. You say specifically:

"The complaint inquiry concluded in discounting that the attack had a racial motivation. Despite evidence of racist language used by perpetrators, Lothian and Borders Police failed to recognise that the attack on

Simon was racist and that this was not only at the outset of the investigation but also as it progressed throughout the investigation."

A. Hm-hmm.

Q. And you talked a moment ago about the Chhokar murder.

A. Hm-hmm.

Q. And the absence of an investigation into racial motivation.

A. Hm-hmm.

Q. Is this something that was also noticed in the Simon San investigation?

A. Yes.

Q. Again, an absence of investigation into racial motivation?

A. Absolutely. Absolutely. And in many respects it's a repetition of precisely that issue.

Q. But these are ten years apart?

A. They are, and the recommendations of the Macpherson Inquiry have been adopted in between. Sometimes it's been said, unpersuasively to my mind, that Chhokar was pre Macpherson. Whatever else you might say about the case of Simon San, it wasn't that.

Q. As I understand your timeline, and if we can to back to the previous page, the Scottish Parliament endorse the Macpherson definition, the reports out by then in 1999.

A. Yes.
Q. And the inquiries into the death of Mr Chhokar were 2001?
A. Yes, but Mr Chhokar was murdered in 1998.
Q. So in relation to the distinction, however, between those who say Mr Chhokar died before Macpherson.
A. Yes.
Q. What significance is that?
A. Because of the emphasis the Macpherson Inquiry report put on any racist incident being an incident which is perceived to be racist by the victim or any other person, including the family.
Q. And again, you mention this in your report. At paragraph 1.5.6, you say:

"Despite the police service in Scotland having adopted the Macpherson definition of a racist incident [and that was prior to the death of Mr San] and that being a racist incident being any incident which is perceived to be racist by the victim or any other person."

And that actually came from Macpherson?
A. It did, yes.
Q. And that was from 1999?
A. Yes.
Q. So according to the recommendations and views of -- in

the Macpherson Report, any incident perceived to be racist by the victim or any other person should be treated as a racist incident?

A. It should at least be investigated as such.

Q. Investigated as a racist incident. And that was a definition that the police service in Lothian And Borders at that time had actually endorsed?

A. Yes.

Q. But in relation to Simon San's death there was an absence of investigation into racial motivation?

A. Yes, an absence of investigation into specifically that issue, a lack of resource allocated to the investigation, a relatively junior investigating officer -- I think it was maybe their first case in fact -- such that the deputy chief constable, Constable Allen, recognised these issues and apologised to Simon San's family for these failings, yes.

Q. In terms of this, we have the Scottish Parliament endorsing Macpherson, we have Lothian and Borders police, as you say, adopting the definition of a racist incident.

A. Yes.

Q. We have the experience of Chhokar and the reports that came out. Ten years later --

A. Yes.

Q. -- there's the death of Mr San, despite these public proclamations and endorsements and acceptances, there's no actual investigation. I'm interested in this mismatch between what's being said and the reality in relation to the investigation?

A. Hm-hmm.

Q. Was that addressed in public in relation to the Lothian and Borders investigation into Mr San?

A. No, there was an apology for the failings, but there wasn't a discernible course of action which would rule out repetition or would persuade the stakeholders involved that a path was being pursued that would ensure a similar outcome wouldn't happen again.

Q. How can that be avoided where things are accepted publicly and endorsed and adopted, but when it comes to another situation arising, nothing has changed?

A. Yes. Well, this slightly takes us back to Scarman and precisely his disappointment with the lack of implementation and the conversation we had at the beginning when we were talking about the antiracism observatory. To some extent, it may reflect that loss of institutional knowledge which comes with the movement of people, but these things should remain independent of people, that these are commitments undertaken, they're statutory obligations, there's learning which has been

adopted, yet there still seems a recalcitrance almost to take seriously the issues which help explain why they occurred in the first instance, that racism, racist violence isn't as serious a matter and certainly not serious enough to be taken into consideration when planning and undertaking an investigation.

Q. So not enough that individuals are enthusiastic in implementing change, but that to avoid the loss of institutional knowledge if people are ill or retire or move to different jobs, there should be some structural --

A. Yes, absolutely. And I think what I'm saying is a bit stronger, which is that it's not a benign loss, an accidental loss, I think there has been a willful resistance to it, because it goes hand in hand with recognising the systemic nature of the problem, back to that term "system".

Q. Can you help the Chair understand why there's a resistance to this change?

A. Well, I think nobody likes to work in a profession where they feel collective responsibility, but of course that's what we do when we work in the public sector. I think people who work in these organisations feel that the charge of racism is inflated and so they need to guard against it, where possible, and in the accounts

that are detailed in the report, it's very hard not to come away with that sense that there's a real systemic reticence to understand that racism isn't just the problem of one or two people or one or two incidents, but it's actually broader than that. It requires remaking how organisations work, including how they engage with communities and not least the communities and the families of people who are the subject of racist violence. There should be a priority in investigating these instances.

Q. So leaving matters in the hands of one or two individual champions doesn't address this issue about the loss of institutional knowledge and the ongoing maintenance of commitment to these issues being resolved properly?

A. No, it doesn't, for the same reasons that Scarman identified as feeling that his reforms hadn't taken hold, there has to be senior leadership on this and it has to be sustained in a way in which will continue after people move on.

Q. Thank you. Continuing on with this -- sorry can we go back to the next slide. Now, it's not identified on this particular timeline, but in 2007 we've already mentioned you looked at the report by Lady Angiolini in relation to deaths in custody and you've dealt with that on page 11 of your report at 157 and we'll look at that

in a moment.

But you've explained, I think and you've footnoted Lady Angiolini's report, and was that another significant moment in this particular timeline?

A. It was absolutely, because it was something which established the nature of a problem which rested not with the families of the victims but something which needs to be taken up and operationalised in high levels in government and so on. The recommendations in that report were really quite wide-ranging. I don't know how many were adopted and how many are yet to be and what their status is. When I tried to find the information on this it's not always clear what's been taken up and what's yet to be taken up and how what has been taken up has shifted or altered processes.

Q. And in relation to what you've described in the period between Chhokar, Macpherson and San, adoption is only one part of that?

A. Yes.

Q. I think you've explained that it's the implementation of those recommendations, not simply the adoption of them or the endorsing of those that is a vital step in the process?

A. Well, again it depends what implementation means. I mean you can implement things. As Scarman observed,

some of his reforms were implemented, but not in a way that was sustained. They can be implemented in way which is a surface-level reform without changing or altered the culture of the organisation and they can be implemented in ways in which show that they have been considered but not resourced.

Q. So change costs money?

A. It does and it's hard, it's uncomfortable, it's unsettling and I think that discomfort and that resource investment are part of the ways in which I think organisations don't change.

Q. And that's perhaps a reason why people say "we've not got the money to implement these changes" and that's why things don't change?

A. Yes, it's part of it I think.

Q. Part of the picture?

A. Yes.

Q. Then we see that you've also acknowledged the announcement by the Scottish Government that this particular inquiry would be established?

A. Hm-hmm

Q. And you've got that on the timeline in 2019. And then you move on from there to more recent times. I think this particular timeline ends with Humza Yousaf, but obviously things have moved on, we now have John Swinney

as the First Minister, but in particular, on 25 May 2023, last year, there was an announcement by the Chief Constable of Police Scotland in relation to institutional racism that we hope to hear about at some point.

A. Yes.

Q. And would you say that was another significant matter where there was a recognition by Police Scotland of institutional racism?

A. Very much so and it's discussed in the report. I should have added it to the timeline now that you mention it, yes.

Q. Yes, thank you. Could you give me a moment, please I'm conscious it's now one o'clock.

LORD BRACADALE: We'll stop for lunch now and sit at 2 o'clock.

(1.00 pm)

(Luncheon adjournment)

(2.04 pm)

LORD BRACADALE: Ms Grahame.

MS GRAHAME: Thank you very much. We were looking at your PowerPoint slides and I wonder if we could have those back on the screen, please, and I'm interested in moving on to slide 4. Here we are. And this is headed up "Census 2022 and Question 23", which is a question that

was posed in the census and that is "What is your ethnic group?"

Before we look at the detail here, professor, in your actual report, this is a segment of really what you were reflecting in your report on page 14, but on page 14 of your report, figure B, you had included disaggregated 2011 census ethnic and racial minority groups in Scotland and England and Wales. So since you did the report the new census data became available to you.

A. Yes, that's correct so I recoded it and presented it here so you have access to the last census and to this census.

Q. Thank you. So in the body of your report, figure B shows the 2011 census data and in the slides in slide 4 the Chair now has the most up-to-date census data?

A. Yes.

Q. Thank you. And this particular slide shows the data from Scotland.

A. Yes.

Q. And page 14 of your report also compared it to England and Wales?

A. Yes.

Q. Could you -- on page 14 of your report you describe this as "disaggregated 2011 census data"?

A. Hm-hmm.
Q. And you talked about disaggregation earlier this morning as the process of breaking down large-scale data about society to recognise specificities within smaller data categories including certain population groups?
A. Yes.
Q. And is that a description of really what we can see on the screen?
A. Very much so. And in the report it outlines the incremental way in which that happens from the first ethnicity question in the 1991 census to how the categories have subdivided and been disaggregated further and how other new categories have been added, including, most obviously, white categories in a way in which wasn't the case previously.

So the slide as you look at this tells us that the percentage of people in Scotland with a minority ethnic background increased from just over 8 per cent in 2011 to just under 13 per cent in the last census in 2022. Now, this is a larger increase than over the previous decade, so between 2001 to 2011 it went from 4.5 per cent to 8.2 per cent and it has gone from 8.2 per cent to just under 13 per cent to 12.9 per cent and the increase in people from minority backgrounds was driven by increases across several different groups, not just

across one minority group.

It's worth noting that for the purposes of the census "minority ethnic group" refers to all other ethnic groups, including white groups.

Q. Can I stop you there for a second. Just to make sure everyone is following what you're saying. So we see two circles on this slide and the smaller circle at the top left says "All usual residents" and that's a figure of roughly five and a half million?

A. Hm-hmm.

Q. And is that the usual residents for Scotland who would have been asked to complete a census?

A. Yes.

Q. And the blue part of that circle is "white Scottish" and that's 77.7 per cent?

A. Hm-hmm.

Q. And the grey part is "all others" and that's 22.3 per cent.

A. Yes, but that includes other white British as well.

Q. Right. So that could include white British people?

A. Yes.

Q. People who are not white Scottish?

A. Yes.

Q. It could also include other nationalities or anything like that?

A. Yes, and the minority --
Q. Sorry the larger circle analyses that small grey part, does it?
A. It does, yes, with the exclusion -- yes, it does precisely.
Q. Sorry. Carry on.
A. Your summary is accurate. I was just going to say that minority ethnic group in the census data refers to white categories too, so that's Irish, Polish, gypsy, traveller, Roma and showman and showwoman, which is a new category in the last census. If we focus on the non-white ethnic minorities, we have around 7 per cent in this dataset.
Q. And we can see the different categories of non-white groups within the larger circle here?
A. Hm-hmm.
Q. And can you help us understand. First of all, in relation to these specific categories you've talked about they have changed over time?
A. Hm-hmm.
Q. You talked earlier today about how language can change?
A. Hm-hmm.
Q. And perceptions can change over time and how exactly have these groups and categories changed over time?
A. Yes, in two respects. One, there has been additional

criteria added to existing categories and another is that there are new categories, so existing -- additions to existing categories would include the ways in which we described Caribbean, so Caribbean would have added to it "Caribbean Scottish", "Caribbean British", "African", "African Scottish" or "African British". So in each census there has been additions to those categories to give a better range according to how people who would self identify as such feel that better reflects their identity categories so you get a better range within those categories.

But the other one is to say that there are new categories and that's particularly true of the mixed categories so "mixed" was introduced as an ethnicity category in the 2001 census for the first time and it followed recognition that there were people who were self-identifying as "other" but as a multiple of existing ethnic categories that were on the census and so "mixed" was deemed to be an important new category that would help to reflect that and you can breakdown the mixed category further, even within that.

So all of these identity categories are what we might call dynamic. They're shifting over time. They have some relationship to what's gone before, but they're also broadening in other respects.

Q. This is the answers to question 3 in the census are essentially self-identification --
A. Yes.
Q. -- from people who are answering that question?
A. Yes.
Q. And the categories have been broadened to allow people to more accurately reflect how they perceive themselves?
A. Yes.
Q. How they feel about --
A. Yes.
Q. As that changes over time, as the categories change over time, as things alter, what difficulties does that cause you in terms of comparison, because you've told us about using data to analyse and to draw conclusions, does? That cause you problems?
A. No, not really. There's different levels at which you can analyse, but what would typically is we would cluster within category ranges and then present that data in the acknowledge that there may be deviations within that category range, so it doesn't make analysis impossible, it just gives a more refined accurate picture.
Q. We've heard and we may hear further evidence about how individual institutions use -- within those institutions, one department may use one category,

another department may use a different category or classification. There is not standardised -- not necessarily standardised classifications in categories across the datasets that are available and I'm wondering if is that a recognised difficulty for someone coming in and actually trying to analyses what the data shows and to draw conclusions from that data?

A. So there's two different ways in which categories and standardisation matter here. One is in terms of equality and -- HEIDI statutory ethnic -- what we would call statutory ethnic monitoring. There are quite well-established identity category ranges that organisations are meant to ensure workforce data about. That's not difficult, that's pretty self-apparent and that's all in the Equality Act. But then there's another way in which we think about categories which is to do analysis, you know, social research, using census categories and so on. The latter is meant to have a standardised -- standardised measure. It's called -- I was just looking for it now, because I keep forgetting about it -- which is used across the devolved and -- devolved and Westminster statistical agencies. It's in the report. It's left me.

But for the purposes of what we call "ethnic monitoring", in terms of generating things like

workforce data, which can allow us to understand the demographic of the workforce, track progression in terms of promotion, be able to ascertain the range of groups who are disciplined and so on, I mean that's not difficult to do with the existing identity categories that are in the Equality Act, yes.

Q. Right. And --

A. More data doesn't make equality impossible. It just helps us to refine it.

Q. Right, thank you. In terms of when the Chair comes to look at this slide, would you be able to help us identify which category Mr Bayoh would have fallen into. We have heard evidence in the Inquiry that he was -- he came from Sierra Leone, and he initially settled in London, but then travelled to Kirkcaldy to be with family and he was applying for citizenship at the time of his death. And I wonder if you could help the Chair identify where Mr Bayoh would have fallen within -- which category he would have fallen into?

A. Well, I mean if I was speculating, based upon what you said, I would have said African, African Scottish, or African British.

Q. And do we see that at the bottom --

A. Yes.

Q. -- of the chart? Thank you.

And what is the percentage of the population that would fall in that category?

A. 0.1 per cent.

Q. Thank you. Can I ask you to move on, please, to the next slide, slide 5, and we see here a reference to the types of racism that you described earlier when we were looking at the keywords and interpersonal, structural, institutional, and systemic. I would like you to go through each of these and tell us what we see here, but can you explain this dotted orange line at the top?

A. Yes, the dotted orange line at the top points to the interaction that this isn't something which should be read as being siloed definitions or descriptions which stand-alone, but that interact and are mutually dependent.

Q. Thank you.

A. It might even be presented as a circle, because it would be an interaction across each category. I have distilled them for the purposes of the PowerPoint because I think we're going to talk through each one with examples, but I thought it was just useful to have a point of reference.

So earlier this morning we talked about "interpersonal racism", the one with which we're all most familiar and how that can take forms in language.

It can be overt, covert, it can be perceived in behaviour or behaviour and/or behaviour or language.

And then I was talking about "structural discrimination" as being something which is -- rather than just -- when we think about structure, we tend to think about things, material things, but the way in which social scientists talk about structure, language is a structure, it helps to give a scaffold, a framework to our social world, and one of the points that people who want to draw attention to structural racism make is that it's often constitutive, it's not an afterthought or something that comes after the event, but actually it's coded into how we communicate and how we identify priorities in all walks of life, how we talk, in addition to being -- in addition to being how we organise our policies and so on. So it's just to kind of give emphasis to structural isn't just material things.

"Institutional racism" I think is the one we'll come back to on a number of occasions and I introduced it this morning as being something which might be understood as a form of structural racism that has a specific articulation within an agency or an organisation, but the key point about it is that institutional racism doesn't require necessarily an

actor to be animating forms of discrimination for its already institutionalised, it can go unstated, it's habituated in the process, attitudes and behaviors, to use Lord Macpherson's terms.

And then we're on to "systemic" which was, again, to delineate between two meanings of systemic. One was the reach. It could be institutional racism manifest, but actually there's pockets of the institution where there's institutional antiracism. Systemic is about the depth of that in one respect, but then also about the breadth in terms of connecting one part of society to another, one institution to another institution, or equivalent.

Q. Can you help the Chair and those listening identify these different -- to some extent different types of racism by giving us examples maybe from situations which have occurred in the real world?

A. Yes.

Q. Maybe cases that you've become aware of in your field.

A. Shall we do so with the subsequent slides, because each of them have an illustration of that.

Q. Let's do that. Thank you. So let's turn to the next slide.

A. So --

Q. This is slide 6.

A. A good example or a good illustration of what I see as interpersonal racism. So in my report I try and contrast, you know, latent attitudes with situational attitudes, "latent attitudes" being opinions and prejudices held and "situational attitudes" being attitudes expressed in events. And one good illustration of that is the racism observed in aggravated hate crimes. So this is Scotland's -- these are Scottish Government figures and they give --

Q. Do we see that the source is given at the bottom of the page, Scottish Government from last year 2023?

A. That's correct.

Q. Thank you. Sorry to interrupt.

A. No, no, and do interrupt at any point if I'm not clear or if there's anything that's unstated.

So at the bottom you have your percentage and going up the way, you have the range of different forms of prejudice which is expressed at the point of hate crime being committed. And what we can see from looking at this is that there's a very high rate of perpetrators invoking an anti-black and then, secondly, an anti-Pakistani prejudice. So at the point in which a hate crime occurs, the rhetoric or the language accompanying it will have invoked an anti-black or an anti-Pakistani term or sentence or something else which

has given indication to the victim and/or a witness.

Now, what's really important to bear in mind is that in the instance of interpersonal racism, race-aggravated hate crime, the victim may not self-identify as black or as Pakistani. The point instead is that it highlights the salience of anti-black and anti-Pakistani rhetoric in situations of the perception of a racial minority. So, you know, the assailant may not know what the ethnicity of the person they're using anti-Pakistani language against is, but it's because of the broader social salience of that rhetoric that they feel empowered to use it, but it's also worth noting that within the rates of aggravated hate crime, the degree to which it occurs against visible non-white minorities is overwhelming. I think it's around 64, 65 per cent of all hate crime which happens. All kind of race-aggravated hate crime happens to non-white minorities in Scotland, which is quite high.

So that's one illustration of interpersonal racism. It's quite an event driven one.

Another illustration of interpersonal racism in Scotland, if we can go to the next slide, please --

Q. Just before we leave that slide. From your evidence earlier today, you said interpersonal racism may be overt --

A. Hm-hmm.
Q. -- actions or words?
A. Yes.
Q. But it could also be covert actions or words and does that mean that the statistics here include both covert and overt?
A. It certainly includes overt. I was going to give a covert one in the next example.
Q. Sorry --
A. No, but you're right to ask it, because I don't actually know if there's -- because there is a recording of a stated prejudice, so something has to be discerned for it to be recorded and attributed to a particular ethnicity or racial group, so I would say this is pretty overt as overt goes.

I'm trying to think about ways in which aggravated race hate crime could be covert. I don't know if you can image a scenario where the third party who encourages somebody to commit an aggravated race crime, perhaps in that context it could be covert, but I was seeing this as overt.

Q. Largely overt statistics, but the issue of interpersonal racism, insofar as it includes covert racism, the position could be even worse than we see on these statistics?

A. Oh, yes, very much so, absolutely. I mean this -- it's very rare that you get -- this is a very low bar for thinking about what is interpersonal racism. If this wasn't interpersonal racism, I'm not sure what would be, but if we go to the next slide, we can see --

Q. Yes. Let's look at slide 6?

A. We can see an expression from a dataset which to some extent tries to chart what includes -- what is covert racism. So this is --

Q. Can I just pause you there. So this was taken from page 19 of your report.

A. Yes.

Q. And when the Chair comes to look at this, he can look at the body of your report as well in relation to this figure and this is from part 2 of your report?

A. It is, yes.

Q. About attitudinal experiences and outcomes?

A. It is, yes.

Q. And this figure is entitled "I have experienced discrimination in Scotland in the last two years" and the data covers for 2019 and 2017 and five years, 2015. Can you explain what that means about the dates?

A. I can indeed. So the question was posed in 2019 as "How strongly do you agree with the statement 'I have experienced discrimination in Scotland in the last two

years'?" So we asked that in 2019. We also asked the same question in 2017 and then the first time we asked this question we asked it in 2015, but we said five years, because we didn't have a baseline of two years.

Q. The first set of data came from a question posed in 2015?

A. 2015, correct.

Q. And covered the preceding five years.

A. Yes.

Q. You asked the same question again in 2017 covering the previous two years, which was from 2015 to 2017 and then the third time was to ask it in 2019.

A. That's correct.

Q. And again, was that the previous two years?

A. Previous two years.

Q. '17 to '19?

A. That's correct. And as it happens, we're in the process of reconvening the survey to be asked this year so --

Q. And when you say "we" do we see the source at the bottom is in fact yourself "Professor Meer" and is this data --

A. And Survation, which are a polling company.

Q. And this was data which you yourself carried out in Scotland?

A. Yes.

Q. On those specific dates?

A. On those specific dates, yes. It's part of a broader survey. We have lots of other questions in it, but this is one of the questions which I think illustrates the degree of interpersonal racism.

Q. And who did you ask?

A. So we had a weighted sample of the Scottish population of black and ethnic minorities. So with Survation we used the last census data to find the distribution of people in Scotland according to their ethnic profile and then built up a picture of Scotland from that. We focused on three groups, plus another, so Asian, people self-defined, either Indian or Pakistani or Bangladeshi; black groups, black Caribbean, black African; mixed ethnicities and then people who self-defined as "non-white/other".

Q. Right. And how many people did you approach?

A. So 500 in each year.

Q. And when you say "each year" you mean 2015, 2017, 2019?

A. Yes.

Q. Were they the same people or did it vary?

A. We don't know. So we would have hit -- caught some of the same people, but because we had a random feature to the methodology where we needed to randomise samples, so we don't know, we don't know.

Q. Right. Thank you. Sorry. You talked about whether

people agreed with that question, which is posed at the top. Please explain the results that you received?

A. So if we put together -- so each group has a different identifying colour; red is Asian, blue is black Caribbean, African, green is mixed and orange is other. If we put together their answers of "strongly agree" and "somewhat agree", we find in each time we've asked this question about a third of the sample will agree with the statement, "I have experienced discrimination in Scotland in the last two years."

When we disaggregate that, we find that in a number of occasions, but across the three times we asked it as a whole, people who self-defined within the black category are much more likely to agree with that statement. So in 2015 nearly 45 of the respondents who self-identified as black agreed with the statement that they had experienced discrimination in Scotland. That rose to 50 per cent in 2015, dropped back in 2019, and you can see that it compares with the numbers for people who self-define as belonging to an Asian ethnic category, which is, you know, around 30 per cent in 2015, around 30 per cent in 2017 and so on and it's slightly lower for people who self-identify as being in the mixed category.

Of those who reported experiencing discrimination,

four-fifths routinely told us they thought it was due to their real or perceived ethnicity so they are identifying ethnicity as a reason for their experience of discrimination. And in 2019, the last time we asked this, a greater number felt that it was also due to their perceived religion: it went up to 66 per cent in 2019 compared with 43 per cent in 2017 and 42 per cent in 2015. So there's something going on there with an intersection between the perceived ethnicity and perceived religion that black and ethnic minorities of Scotland are pointing to as reasons for potential discrimination. Now, this is perceived discrimination, so this can include precisely the covert low level, rather than overt aggravated event-type discrimination.

The other thing that's noticeable in this dataset was that about 60 per cent of the people who reported it said they hadn't done anything about it. So if it happened in the workplace, they didn't report it to a line manager; if it happened in an educational setting, they didn't report it to a tutor; if it happened in the street, they didn't report it, you know, to the police if it was an event-type activity, which suggests that there's a normalisation of relatively low levels of reporting of experiences or perceptions of racial discrimination in Scotland, which is quite striking I

find.

Q. And when you say "normalisation", what do you mean by that?

A. I mean managing it, I mean coping with it.

Q. Accepting it?

A. Navigating it.

Q. Doing nothing about it?

A. Making sure it doesn't intrude on their life in a way in which it becomes everything. I don't think people are laying down and not speaking up about these things, but I think that they're also choosing battles, if I'm honest.

Q. And just to go back to the chart itself, do we see on the left-hand side that goes from zero per cent to 60 per cent and is this the percentage of respondents who elected to choose what we see at the bottom?

A. Yes.

Q. "Strongly agree", "somewhat agree"?

A. Yes.

Q. "Neither agree nor disagree", "somewhat disagree", "strongly disagree".

A. Yes.

Q. "Don't know". So the categories were set by the survey, by you?

A. Yes.

Q. And the percentage of responses we can see with the coloured columns?
A. Hm-hmm.
Q. Red, blue, green, yellow?
A. That's correct.
Q. And you've categorised it 2015, 2017, and 2019?
A. Hm-hmm.
Q. Which are the dates that the requested were made?
A. Yes.
Q. And you've then categorised them under each of the "strongly agree" or whatever category they picked.

So for the Chair when he's looking at this at a later stage, he can compare the entries for 2015 which was based on the previous five years?

A. Yes, yes.
Q. Would that include 2015?
A. Yes, yes, I think it would do, it would do. And we're also repeating it currently, we're in the process of pulling it together, so hopefully by the time this module comes to an end you will also have that dataset, should you wish it.
Q. Thank you.
A. If we move to the next slide, I could maybe pick up the --
Q. Please do. Let's move on to the next one.

A. So I mentioned that there was an increasing tendency to identify religion as grounds for discrimination or perceived discrimination and we can consult on this point the Scottish social attitude survey from last -- taken in 2015 just to coalesce with when we started generating that dataset. So this ran or this gives us answers to questions, hypothetical questions, to a Scottish population at large and it asks a series of questions about attitudes to Muslims as well as to people from elsewhere who have migrated to Scotland to almost give us something of a comparator.

Q. Can I stop you there for a second?

A. Please.

Q. So this is a survey on Scottish social attitude trends?

A. Hm-hmm.

Q. And the dates when the survey was carried out are given in the pink row?

A. Yes.

Q. 2002/3, 2006, 2010 and 2015?

A. Hm-hmm.

Q. So the final date of this survey was 2015?

A. Hm-hmm.

Q. And in relation to the survey itself, who was it that carried out this survey?

A. So this is data from the Scottish Government. So the

Scottish Government has a number of surveys on the go, which it's, you know, the sponsoring partner of, let's say, but then agencies of the Scottish Government pick it up and run with it.

Q. Right. So these datasets have come from the Scottish Government?

A. Yes, and it carries on subsequent to this.

Q. It carries --

A. Yes.

Q. But 2015 is obviously the year --

A. Yes.

Q. -- we're primarily concerned with.

A. Yes.

Q. And when the survey was carried out in 2015 and questions were asked about Scottish social attitude to determine trends was that asking about the previous five years?

A. Yes.

Q. Or the period prior to, so from 2010 to 2015?

A. No, it wasn't doing it in the same way. I mean there's always a degree of triage which happens with government-sponsored surveys. It would be great if they repeated them every year so you have a complete dataset which gives you a longitudinal pattern. It doesn't quite happen like that. Government statistical agencies

need to make decisions about where to use their resource best so they'll pick and choose, but in a way in which gives us some kind of a discernible pattern. So it would have been for the year 2015 or certainly would have been the year in which the question was posed, rather than saying over the last five years.

Q. And who was asked to answer these questions to provide the data?

A. The -- a sample of the Scottish population at large.

Q. Just a general sample of the whole population?

A. A general sample of the population at large. There's parts of the survey where they control and hold for minorities within it, but this is a sample of the population at large.

Q. All right. And so please --

A. Except where there's a named minority, because then they have taken the minority out of the question, so they haven't asked Muslims, you know, you know, "Would Scotland lose its identity if more Muslims moved here?"

Q. So they have excluded Muslims from that survey?

A. They have excluded the subject group.

Q. From this group?

A. Yes.

Q. So tell us about the questions that were asked?

A. So it's a question which is trying to gauge how

comfortable people feel in the proximity of other -- of particular minorities and it tells us that the proportion of people in Scotland who prefer to live in an area where most people are similar to themselves declined between by ten percentage points between 2010 and 2015 and that negative attitudes to Scotland also became -- negative attitudes to Scotland becoming a more diverse country also declined, but not uniformly, and this is the point of me showing this slide. Because what's especially noteworthy in relation to the last slide I showed you where minorities are saying they're more likely to be perceiving discrimination on the grounds of not only their ethnicity but also of their religion, is that the proportion in this slide who thought that Scotland would begin to lose its identity if more Muslims came to live in Scotland fell by nine percentage points from 51 per cent to per cent, but not at the same rate as other groups.

Q. Sorry. Where do we see the 51 per cent?

A. Why has it dropped off my slides? So nine percentage points, 41 per cent. So if you look at the second row down.

Q. Yes. The word "agree Scotland would begin to lose its identity if more Muslims came to live in Scotland?"

A. So it dropped in 2015 to 41 per cent from 50 per cent

the year before, so we're starting to see a decline, but the decline is, firstly, from a higher base in 2010.

Q. The peak of that was 50 per cent in 2010?

A. Yes.

Q. And then it declined in 2015 at 41 per cent?

A. Yes, but it's not declining as quickly. There's a rise in 2003, which the -- if you have a look at the survey or, no, the notes aren't on here. There's a rise in 2003 that we put down to an association between Muslims and security and/or terrorism.

Q. We're particularly interested in 2015.

A. Yes. Okay. So can I just go back to my actual report where I mentioned this, because I think some of the data might have fallen off.

Q. Yes, I think it's page 42 of your report, figure F2 is the one we're looking at, and it's at 344, which starts the previous page 41, but you'll see where that is.

A. Great. Thank you very much.

Q. Would it help you if we put that on the screen or do you just want to check something?

A. No, I've got it. I'm just going to check it. Yes, I mean that's the point, isn't it, that whilst --

Q. I think you say in 344 at page 42:

"What is especially noteworthy is the while the proportion who thought that Scotland would begin to lose

its identity if more Muslims came to live in Scotland fell by nine percentage points from 50 to 41 per cent."

And that's what we can see on the column two down from the pink bar.

A. Yes, and not only did the anxiety remain higher than for other groups, so it is higher than for other groups, but the previous rise in 2002 and 2006 itself is attributed to an association between Muslims and terrorism.

Q. Right. Thank you.

A. Can we go to the next slide --

Q. Yes.

A. -- where I explore that a little bit further. Thank you.

Q. I think you come on specifically to terrorist threats here.

A. Yes.

Q. Can you talk us through what we see in this slide.

A. Yes. So I mean one of the things which my report tries to capture is that it's arguable that the circumstances and the introduction of counterterrorism legislation, specifically the Counterterrorism and Security Act 2015, helped to certainly amplify security -- amplify scrutiny of Muslims in Scotland, as well as the UK more broadly.

Now, if you recall, that legislation was introduced following the Intelligence and Security Committee Report

into the murder of Lee Rigby, and the Independent Joint Terrorism Analysis Centre raising the UK threat level from "substantial" to "severe" in 2014.

The then Prime Minister announced legislation to stop people travelling overseas and legislation that would sanction people deemed to be engaging, directly or indirectly, in terrorism, including people returning to the UK, as well as to address what they thought was a rising risk of terrorism from the UK.

Q. And I think you address this on 41, part 3 of your report. At 342 you talk about the Counterterrorism and Security Act 2015, which amplified scrutiny of Muslims in Scotland and the UK more broadly and you talk about the Joint Terrorism Analysis Centre, JTAC.

A. Yes. And this is where we come back to the YouGov poll which we discussed earlier, because this, you know, was a good poll, it was properly weighted, it had large samples of Scottish respondents and the fact that the most associated term when stimulated or prompted from you know -- with the question "What three terms do you most associate with Muslim?" were "terror, terrorist, terrorism", ahead of the others.

Q. And that's what we see in the pale green box on this slide. So that's data from the YouGov poll of 2015.

A. Yes.

Q. And tell us a little bit about YouGov as an organisation?

A. YouGov is a UK polling agency with of a very long history in this country of doing very reliable and valid polling research, very busy at the moment for obvious reasons, but it's an agency which has got better at asking questions on topics that have a public salience but aren't squarely about, you know, political events, that are actually connected to population-wide perspectives on difference.

Like all polling agencies, I think it's improved. There was a time when very flat questions were asked that effectively would produce very unhelpful datasets, because they're effectively answering a question which wasn't properly worded, but they've got more sophisticated in the ways in which they try to gauge the public mood, rather than presenting people with a set question to which is a "yes" or "no" answer. The prompt of, you know, "What three words do you associate most?" is quite an interesting way of gaging salience in terms of anti-Muslim attitudes and anxiety around terrorism.

Q. And you have spoken about this poll earlier in your evidence, but we see here in the pale green that in 2015 the YouGov poll data, which you describe more fully in your report, the words most associated with the term

"Muslim" were "terror, terrorist and terrorism".

A. Hm-hmm, yes.

Q. And so is that a snapshot, if you like, of attitudes --

A. It is.

Q. -- as expressed and reflected in that survey?

A. I think it's a snapshot of interpersonal level perceptions of Muslims that reveals something about a generalised heightened anxiety about security and terrorism in which negative stereotypes of Muslims were salient at that point in time.

And there were other polls too which I refer to in the report around then. There is another YouGov poll around this point which tells us that over half of a sample agreed with a statement, I quote, "that there is a fundamental clash between Islam and the values of British society" and in which one in five agreed with the statement that Islam in general is generally -- is generally incompatible with the values of British society. So, you know, there's something going on at that point in terms of latent attitudes.

Q. And when you're talking about latent attitudes, earlier in your evidence when I asked you to give an explanation of stereotypes, you explained about how a stereotype can typically simplify and expedite a perception or a judgment being taken and you talked about shorthand. So

is this association with the term "Muslim" and "terror, terrorist, terrorism", something else that could potentially feed into that question of expediting and shorthand to judgment?

A. Yes, very much so, and the data in terms of stopping people at Scotland's borders and ports would suggest that something equivalent to that is happening. So in the report I detail information from the Information Commissioner that will between 2016 and 2021 of 1,371 passengers intercepted by Police Scotland, ethnic and racial minorities made up half of the number stopped, which to some extent confirms a perception amongst Muslims in Scotland engaged by the cross-party working group on Islamophobia, which was a working group of the Scottish Parliament which had an inquiry into Islamic phobia in Scotland which I discuss in my report, in which respondents talk about the fact that they feel much more likely to be -- be a subject to surveillance, on the grounds they believe of their perceived religion, or an interaction between their ethnicity and their religion, because they're Muslim and there's a quote from that in the blue bubble on the slide. It's also supported in the finding of those rates of stops at the ports, which are the equivalent of being 20 times more likely to be stopped under counterterrorism powers.

Again, this is trying to go back to that issue of a heightened perception of interpersonal racism, because of this interaction or intersectionality in between perceived ethnicity and perceived religion.

Q. We see in the yellow box at the top you have noted the UK national terrorist threat level was raised from "substantial" to "severe" in August 2014 and that was followed by the introduction of legislation, the Counterterrorism and Security Act 2015, which you have described today and which is more detailed or there's a more detailed description in your report.

A. Yes.

Q. And you've said that amplified scrutiny of Muslims in Scotland and the UK more broadly?

A. Yes.

Q. And then you've looked at the data relating. We've seen the blue box at the bottom. At Scotland's borders and ports between 2016, so the year after the introduction of that legislation --

A. Hm-hmm.

Q. -- to 2021 Police Scotland are up to 20 times more likely to stop ethnic and racial minorities under counterterrorism powers and that's the legislation that exists in relation to counterterrorism?

A. Yes, that's right.

Q. And then the blue bubble, speech bubble you've given, it says source CPG2021; who are "CPG"?
A. Cross-party group who wrote a report on experiences of Islamophobia in Scotland and the statement of comes from one of the respondents to that.
Q. And I think that was one of the reports you listed in your source documentation at the start.
A. Yes.
Q. And that says:

"When the airport immigration officers, the police, are making Islamophobic assumptions about you, questioning your humanity because of your background, how exactly are you supposed to report it and hold accountable."

And that was an actual quotation from a respondent to the cross-party group?
A. Yes, yes, and I thought it brought together the trends in attitudes that we're picking up in terms of self-reporting perceived racism and the interaction with legislative developments happening in Scotland during this time, but they're both meant to be examples of interpersonal racism which moved through the ways in which interpersonal racism may be observed, aggravated, perceived, interacting.

If we move to the next slide, we can start to think

a little bit more about some of the issues around structural racism. Okay.

Q. So this is moving on from "interpersonal" to "structural"?

A. Yes. So I mentioned earlier that thinking about stereotypes can partly be understood as a form of structural racism in terms of the language which informs our assumptions and "therefore" also our behaviours.

Q. Now, can I slow us down on this slide, please.

A. Do. Yes, do, do, do.

Q. We'll see the sources given at the bottom, Wilson et al, and this is from 2017.

A. Yes.

Q. And it says "Racial bias in judgments of physical size and formidability and from size to threat" and it's published in a journal that's given the reference there.

A. Yes.

Q. Now, at the top we have the title of the slide, which is "structural racism", which you have described for us earlier today, but this image shows on the left something called "harm bias"?

A. Hm-hmm.

Q. Now, tell us what "harm bias" is?

A. Can I just take a step back and just introduce the study a bit more, if that's okay.

Q. Absolutely.

A. So you're quite right. So the journal article is by two authors -- well, several authors, but it's based upon a US study. And the image you see before us is what we would call a "scatter plot" and it's a scatter plot which is trying to give a representation to the interaction between two axes, so you're quite right in terms of harm bias.

So what they are calling "harm bias" is the perception of a greater threat from black men and what they're saying is to some extent you can predict the harm bias on the Y axis by the --

Q. Tell us what the Y axis?

A. So the Y axis is going up, so that's the Y axis. And at the bottom you have the "muscularity bias" and they're saying that the muscularity bias is the tendency to attribute greater size to black men and they're saying there is an interaction between these two variables and so with a scatter plot you have a horizontal axis, which gives us the muscularity bias and you have a vertical axis, which gives us the harm bias. The relationship between these two variables is denoted by letter R and a number.

So if the -- if there was no correlation between those two things, we would just get a straight line like

that, the plots would just be relatively horizontal. If there was a perfect correlation, it would kind of go like that, there would be a one-to-one correlation. What they're trying to show in their study is that when they tested how likely people are to perceive white men and black men as being -- how big they are and also, therefore, how formidable they perceive them to be and then also how great a threat they present, and these are all separate tests within the same study, they find this consistency in terms of a bias between perceiving the black men in their samples as being, first of all, larger than they are; secondly, more likely to pose a threat, "the harm bias"; and then, thirdly, they go on with related studies to show that those two perceptions together come together to inform the view that a greater degree of force is used -- greater degree of force is anticipated to be required to be used.

Q. So if a black man is more muscular?

A. Yes.

Q. The more muscular he is, is there a perception -- does this show us that there is a perception that he is potentially going to be capable of causing greater harm?

A. Yes, yes, precisely. So the perception itself that the black man is more muscular is a misperception in this sample, in this study, because they have a white sample

and a black sample and the white sample is the same size as the black sample. So there's first of all a misperception, so there's an over-attribution of size, but there's also a more -- a greater likelihood of perceiving a black man as of greater risk of harm, of potential harm.

Q. If we had a white man with muscles who's gone to the gym and has a strong looking physique and a black man who also has similar size muscles and strong physique from going to the gym, the black man with those muscles will be perceived as being potentially capable of causing greater harm than the white man with the same level of musculature?

A. Yes, precisely. If we go to the next slide, because I tried to -- I appreciate scatter graph --

Q. Can I stop you there for a second, because it's now 3 o'clock and we generally have a break at this time.

LORD BRACADALE: We'll have a break for 15 minutes.

(3.00 pm)

(A short break)

(3.20 pm)

LORD BRACADALE: Ms Grahame.

MS GRAHAME: We were looking at slide 10 and if we could have that back on the screen, please. And I think just before the break you had explained that interpreting

this data is such that from this study it would appear a black man with muscles would not just be perceived as capable of greater harm than a white man with muscles, but also be perceived as bigger in itself --

A. Yes.

Q. -- than the white man with the same muscles.

A. The other way around, yes, or the two steps would go the other way round. They would be perceived, first of all, a bigger and then capable of greater harm.

Q. Of course. Right. So initial impressions would be that the black man was bigger?

A. Yes.

Q. Even though his size was the same as the white man?

A. Yes.

Q. And from that immediate perception, the risk of harm would be perceived as greater?

A. Yes.

Q. And so greater threat, greater size, greater threat?

A. Yes.

Q. And then I think we see in the speech bubble you've given a quote from this study which says:

"We tested this across seven studies demonstrating that people perceive young black men as taller, heavier more muscular, more physically formidable and more capable of physical harm than young white men of the

same actual size and that this bias and physical size perception can influence the decision to use force against them."

A. Yes.

Q. So it's not simply -- that isn't the end of road. The study is saying they are perceived as bigger in size and they are perceived as capable of greater harm?

A. Yes.

Q. That perception then has consequences?

A. Absolutely.

Q. And I think you expand on this in your report in relation to informing the methods of policing that is then adopted --

A. Yes.

Q. -- in response to that perception?

A. Yes, that's correct.

Q. And if we look at page 6 to 7 of your report, let's start with page 6 of your report and it's paragraph 134, and as we get that on the screen, we've heard and there's evidence available to the Chair about something called "racial threat theory" and I know that's not mentioned on that slide, but is that something that's analogous to this study?

A. Yes, absolutely. The subsequent slide tries to draw that out a little bit further, but simply to reiterate

the point that the perception of size gives rise to perception of formidability and with it threat which comes from that and, therefore, the force which is anticipated as requiring to be applied is motived by the perception of greater threat.

Q. Right. And is there a correlation there between greater threat, greater force used?

A. Absolutely, and that's what the slide is tracking -- or, no, anticipation of requiring greater threat, anticipation of requiring greater threat. If we have a look at the slide which follows --

Q. I'll come on to that in a moment if that's possible. Can we look at page 6 of your report, paragraph 134. It's on the screen now and this is where you said:

"There is not currently available equivalent research in Scotland."

A. Yes.

Q. This study as a US study?

A. Yes.

Q. As I understand it, it was based on seven studies or seven parts of the study.

A. Hm-hmm.

Q. You've said:

"But the broader point it raises is important in recognising the role of stereotypes."

A. Yes.
Q. "It Is also important for understanding how when under police scrutiny police officers can interpret the ambiguous behaviour of black men as threatening."
A. Yes.
Q. "And here there is a long-standing body of evidence initiated in the US, but is also established in the UK..."
And if we can turn on.
"... documenting how police officers routinely view black men as especially threatening and do so in ways that inform the methods of policing adopted."
A. Hm-hmm.
Q. Now, you go on to explain that, specifically research findings and those and you talk about superhumanisation, which I'll come on to in a moment. From the Chair's perceptive, this is a US study.
A. Yes.
Q. Is there any reason why because it's a US study and not a UK or a Scottish study that she should disregard these findings?
A. No, not disregard, but be alive to the fact they're different contexts of policing in the two contexts. There's a continuity in stereotypes about black men in both contexts. The histories in which those have

unfolded are different, so it's important to be alive to that. Obviously, the methods of policing and the parameters within which police officers work are different, but the prevailing finding in the study that there is a latent assumption that black men are bigger and more formidable, more threatening and, therefore, potentially require the greater use of force, I think is very applicable to Scotland.

Q. Thank you. Let's look at that next slide then, slide 11, if we can back to the slides. So if we look at PDF 11. Here we are. This is a circular image with a number of entries. Could you talk us through this?

A. Yes. Well, in some respects we have now covered this, because you're better at describing slides than I am, which is to say that the scatter plot I appreciate can be a bit obtuse, but what the author -- study authors are trying to establish is that there is a -- there's a dynamic within the biases that take hold at the initial perception of black mention being bigger and more formidable, therefore, more physically threatening, that the sources of those stereotypes are both what they say racial proto-typicality, so that is to say that the -- this is the grey box -- that is to say the perceptions that people carry with them in a latent fashion, you know, on the street interpersonally and so on, as well

as being top down, so messages that they may receive from news media, from politicians, from other opinion formers, that they internalise, that in the study the red box --

Q. Before we leave the grey box. So the reference to bottom-up stereotypes of racial proto-typicality that's in the sense of the people who are on the street with their own biases --

A. Yes.

Q. -- and attitudes, which they're walking about with everyday?

A. Yes.

Q. And that's part of their daily life personal and professional?

A. Yes.

Q. And the top down relates to maybe senior people, or maybe managerial -- people in managerial positions or society, politicians, media, who have influence?

A. Yes. Influencers, but those influencers aren't in the way which we talk about influencers now in social media, but influencers in terms of politicians, people with authority who can say that there's a problem with increasing rates of crime because of X, Y and Z or, you know, we need to adopt a different immigration policy because these people are a threat, et cetera or

something.

Q. Thank you. So you were about to move on to the red.

A. The red box shows that within their study what they do is they try to see if the perception of formidability can be altered by explaining to their samples that the black people they're looking at are the same size as the white people they're looking at.

Q. Would that be akin to training or awareness raising?

A. Possibly, but what they're trying to do in their studies is say that even if when people have the information, that these two categories of people are the same shape and size, that doesn't alter the perception amongst the white sample that the black people are more formidable. So even with the knowledge that the black people they're looking at are not stronger than the white people they're looking at, they continue to retain the view that the black people that they're looking at are more formidable.

Q. What would be required to alter that perception? If the knowledge and awareness of the truth of the situation isn't sufficient, what would be sufficient to create that difference and that change in perception?

A. That's an interesting question. I don't have an answer to it. It's not which is addressed in this study. I think it's a bigger question and a bigger intervention

that might be thought of, but it's not something that they come to in this study.

Q. Right.

A. Yes.

Q. Thank you. Moving on to the green box.

A. Yes, the green box being what we established earlier, which was that the biased formidability judgments in turn within the sample promoted the respondents' justifications of hypothetical -- of greater hypothetical use against black suspects of crime.

So they're working through in this study a number of scenarios and they've established that white -- white participants think that black people are bigger and heavier than white people of the same size, they have established that white people think that black people not only are bigger and heavier than they are, but that they present a greater threat and then they've established that white people think that black people who are bigger and heavier than they are and who present a greater threat should be subject greater force and that's what the green box shows.

Q. And so those using force, their perception becomes the justification?

A. Yes.

Q. Even if that perception is skewed or inaccurate?

A. Yes.
Q. And with this study we've talked about the size of the person with muscles?
A. Hm-hmm.
Q. White or black?
A. Hm-hmm.
Q. Was any part of this study assessing perception with the knowledge of the participants regarding the character of the black or the white person or was it simply restricted to size, because you've said that size was the same? Was there any other characteristics that were factored into this study?
A. Not that were -- no.
Q. No.
A. So the participants weren't told, for example, that here's -- here's a potential scenario where this person has committed a crime in the past. It was purely based upon perception of black men. One of the things that the sample participants were asked were how would you feel if you were in a physical altercation with this person or this person and, consistently, the black person who was of the same size and build as the white person was deemed much more threatening.
Q. So they were both male.
A. Yes.

Q. They were both the same size.
A. Yes.
Q. And the difference was one was black and one was white.
A. Yes, it really is as simple is that.
Q. It was as simple as that and the participants were not provided with character references?
A. No.
Q. Or anything of that sort?
A. No.
Q. It was really was as simple as the only difference was black and white?
A. Yes, yes.
Q. Thank you. And then the purple, the final purple section there.
A. Is that the participants -- the study's authors conclude, you know, integrate these multiple pieces information, so they integrate the information that is latent with them, that they already carry into the study, you know, which has been gaged at the outset too, and they also integrate the information that they're given to try and hold and try and offset to some extent that bias to see what happens when they weren't told that the white person and the black person are of equivalent strength and size and yet they still carry on taking and holdings the assumption that the black person

is more physically threatening than the white person, concluding that they need to be controlled using more aggressive measures.

Q. Thank you. Let's move on to the next slide, please. And we see here a picture. Is that of Lord Scarman?

A. It is of Lord Scarman, yes. This goes back to the point that I suppose you've flagged already from the report that even though the study is US-based, it shares in common a long-standing concern with stereotypes and one that's been flagged in the UK over a significant period of time, not least in public inquiries, and I suppose formally since Lord Scarman identified the operation of stereotypes in the policing of young black men in the UK.

Q. And what's the quote that you've given us here?

A. The quote is the observation Lord Scarman made about racist stop and search and the use of what used to be called Sus laws and the observation that what motivates that is he called "an unthinking assumption that all young black people are potential criminals". "An unthinking assumption", you know, which reading back and revisiting the report after many years, I was struck by the observation isn't that just what we mean by stereotypes, in that what we mean by cognitive biases, an unthinking assumption.

Q. An unconscious bias.
A. Yes.
Q. Yes.
A. But I thought that was especially relevant, because in the next slide we get to the --
Q. Let's move to the next slide.
A. -- discussion of stop and search and the disparities.
Q. Now, I think this table is taken from figure Z, which in your report is under paragraph 322 on page 35.
A. Yes.
Q. So that's part 3 of your report, but the Chair will be able to read more detail in that section.
A. Certainly. And I mean that section worked throughout the ways in which we had good evidence that stereotyping continues to play a role in shaping police engagement with ethnic and racial minorities today and there's a number of studies I report in that, including one which was a recent study of more than 2,100 stop and search records kept by an English police force, which spanned both a city and a rural area, the shire police force, and it included interviews with frontline serving police officers as well and, amongst the findings, were three which I think are quite important for us. One had to do with the use of generalisation that officers used to inform their policing. They rely upon the

generalisations to go about their stop and search. Secondly, that that generalisation is key to explaining the numerical disparities that are apparent in that shire police force's stop and search records and, thirdly, that there's almost a bottom-up effect in that study which is not that there's a decision which is top down to over police certain communities, but the -- it's almost like a reverse systemic racism in that the practice and the convention of over-policing those groups then becomes almost operational policy, it's reverse engineered, which is quite a striking observation because we often think it goes the other way, but I think that's relevant here because using Scottish Police Authority data, what we are looking at in this table --

Q. And this is data from last year?

A. It is, it is.

Q. And we see the red columns are "Scottish data" and the blue is "England and Wales"?

A. Yes, that's correct, that's correct. So this table disaggregates for five ethnic groups, going left to right, white, mixed, Asian or Asian British, black or black British, other ethnic group, and they've held a table for "not stated". I am not sure why they have done that, but, nonetheless, when I recoded the data and

used it, I wanted to include what they had in theirs.

And obviously we see that there are notable disparities obviously within each country case between ethnic and racial groups, as well as across country cases. So if we look again the Y axis going up, so these are the numbers of searches per ten thousand of the population, not population of the whole, but population of this group and the -- sorry -- the X axis, X axis, Y axis and so on.

The X axis you can see the population group and in England and Wales for black and black British groups, you know, we see there's 269 searches per ten thousand of the population compared to 56 searches for -- where are we?

Q. The white population?

A. 56 searches for the white population. That's right. There's less of a range of the disparity in the rates for Scotland, though the rates obviously for the black groups 108.4 and 108 per ten thousand of the population, are greater -- more than -- not more than, around twice potentially than for the white group.

But you know, that mixed group is very interesting to me as well in Scotland of 117, because that suggests that -- I mean we're talking here about a non-white group and we don't know -- these aren't necessarily

people who are self-attributing their ethnic and racial categories either and it may well be that that mixed group is largely populated of people who would identify some mixed heritage with black groups too. I don't know. I can't break that down. I don't have that information.

Q. So if we look at the red column which is Scotland only?

A. Yes.

Q. We see that for ten thousand population, 57 white people would be stopped and searched.

A. Yes.

Q. Of a mixed group it would be 117.

A. Yes.

Q. Significantly higher.

A. Yes.

Q. Asian or Asian British would be lower, 39.1?

A. Hm-hmm.

Q. But black or black British would be 108.4?

A. Hm-hmm.

Q. And other ethnic group 132?

A. Which is also very high, but, again, I don't know what's in that group, what ethnic groups are put into that group. So you can see a disparity. Whatever else we may observe in this point, there is clearly a disparity in terms of the rates of stop and search for non-white

groups in Scotland and when we're thinking about the role of stereotypes in structuring, against structural racism in approaches to understanding disparities, well, you know, what's -- these rates in Scotland today and in England too are not inconsistent with what Lord Scarman was observing, what, in 1981? So --

Q. And what you noted on the slide "an unthinking assumption that all young black people are potential criminals"?

A. Hm-hmm.

Q. Thank you. Could we move on to the next slide, please?

A. Yes.

Q. And this is --

A. So if we move then -- so we've talked about interpersonal racism, we have talked about structural racism. So institutional racism, of course, is the type of racism which people, you know, are more familiar and most familiar because of the prominence it's had, obviously, in society since Macpherson.

What I thought was useful is just to delineate how we've got to institutional racism as we use it today in terms of Scarman, Macpherson, but also observe the way in which it was used in Scotland in the past in the Jandoo Inquiry into the investigation of the murder of Surjit Singh Chhokar.

Scarman had something of an ambiguous relationship to this term, "institutional racism". He wasn't, you know, effectively, you know, a parent of it. He drew attention to the problem of police racism certainly, but by doing so or in doing so, he I think restricted institutional racism to something like an overt action, either an overt policy or overt intention, or something which is consciously pursued.

Macpherson was interested in something different. He was interested certainly in the racism of overtly prejudiced individuals. So saw, you know, racism as a conscious and deliberate policy of public institutions certainly, but he was also interested, obviously, in the unwitting or unintentional discriminatory practice within the mode of operation of an institution, which may otherwise be formally committed to being nondiscriminatory.

When we get to the Jandoo Inquiry, we see something of a regression really in terms of specifying the form and that content of what institutional racism is. In the report I began by delineating different approaches to the idea of equality and inequality, the sameness or as recognising difference. For reasons unclear in the Jandoo Inquiry, and they are not substantiated with a rationale, he collapses back to kind of -- almost the

sameness definition of racism, which does very little to move -- well, does very little either to speak to the specificity of the Scottish context, which you would assume a report like that wanted to but, secondly, advance on Macpherson, it's a regression, and I sometimes look at that and think, well, was that a missed opportunity in the public administration or the possibilities for advance in terms of thinking about tackling racism in Scotland?

Q. I think on page 11 of your report you start talking about Macpherson on page 10, but there is a text box 6 at the top of page 11 that talks about the Macpherson and Jandoo definitions of "institutional racism".

A. Yes.

Q. And then you continue that into 1.5.5 --

A. Yes.

Q. -- on page 11.

A. Yes.

Yes, and I think that's useful because one of the virtues of the way in which institutional racism helps us in terms of analysis is that it's not simply restricted to one institution, you know, to the police force the Metropolitan Police in that case. If we move to the next slide, I can try and elaborate that.

Q. Yes, please do.

A. So --
Q. So is headed up "institutional racism".
A. Yes.
Q. I don't think this actual chart is within the body of your report?
A. It's not. It's not. Just before I move onto this, it's just worth reminding and it's also in the report that you mentioned at the beginning the statement from Chief Constable --
Q. Livingstone?
A. -- Livingstone. Thank you. In his statement he ignores the Jandoo definition of institutional racism. He went back to Macpherson. He talked about policies, processes, practices and systems and he appealed directly actually to, and I quote:

"The ambition set out by Sir William Macpherson to eliminate racist prejudice and disadvantage and demonstrate fairness in all aspects of policing."

So it's just a further observation on I suppose the Jandoo Report.

But nonetheless, this graph, and this wasn't in my report and I can add it, but I just though in thinking about the purchase and the utility of institutional racism, we can see it's been adopted elsewhere to help explain disparities within a different institution.

This is at least an institution of maternal health care. This data is from the Nuffield Department of Population Health who have analysed the national perinatal epidemiology unit's collection of maternal mortality rates on the slide from 2009 to 2022 among women from different ethnic groups in England. And what you can see looking at this, if you follow the colour-coded lines, blue - white, purple - black, green - Asian, red - Chinese, and a slightly kind of a dark blue - mixed, is that the risk of maternal death is almost three times higher in 2024, women from black and ethnic minority backgrounds compared with white women. Women from Asian backgrounds also continue to be at higher risk. And in what accompanied it --

Can we go to the next slide, please, so we can have some narrative. Yes. They identify a series of concerns around a defensiveness and a denial within institutions of healthcare and the statement that they quote "I treat everyone the same. I don't recognise -- they observe, doesn't recognise how racism impacts within maternity care and the harms it causes.

So why institutionally are there these disparities? And these include reasons to do straightforwardly with race and racism. Treating white bodies is the norm, is the default, presuming that all women experience child

labour as white women might. That goes hand in hand then with being ignored or disbelieved when you raise concerns, often told either that women are overstating the level of pain they're in. So Asian women often called "fussy" and black women often denied pain relief because they're told you can bear it, there's an assumption they have a high pain threshold and, more broadly, a lack of cultural understanding about how childbirth and how child -- how the process of child labour might work within particular cultural traditions.

But importantly, and this is the more systemic character, the ways in which ethnicity rather than racism is deemed to be a risk factor, so a failure to recognise physiological signs of crisis, to note jaundice, because it's not as readily apparent in the skin tone, to use ethnicity as a ground for moving to induction, rather than allowing women the chance to have a home birth if they're overdue. And one of the campaign groups who aren't quoted here argues squarely that one of the reasons not to move to induction for minority women is that as soon as you bring a child into a healthcare setting, you put its life at risk and I was struck by that observation. That the campaign on which that group organises, because they argue that as soon as you bring it into the constitutions of healthcare, you

are putting a child at risk, because it's not white. Isn't that a striking argument that's made and which is not unrelated for these cases to the wider lack of representation in clinical evidence and committees?

Q. And in particular to the bulletpoint we see there, failure to recognise conditions, for example, jaundice, sepsis, we've heard evidence in relation to an officer safety training manual, which was in force at the time we're interested in, where one of the signs and symptoms of a particular risk was cyanosis and we've heard some evidence that that can be a very difficult condition to recognise in a person, even when they are a medic, a qualified doctor, but in someone who has black skin that that can be made even more difficult to recognise. Is this the type of example you're talking about here?

A. Very much so. That's an institutional concern. That should be part of the professional training and development of all staff within the institution. It should be part of their risk register and there should be an appropriate skill set to accompany that, but because the institution is modeled upon white bodies as the norm in this case and possibly in the case that you talk to, that's a failure, that's an institutional failure, but the reason for giving this example is to show something of the utility and the range I suppose of

thinking about institutional racism as a category of analysis.

Q. Thank you. Let's look at the next slide, please, which I think is 17.

A. Yes.

Q. HMICS training and development survey and the source is the HMICS2021 Thematic Inspection of Police Scotland Training and Development?

A. Yes.

Q. Tell us about this.

A. So this is part -- this is data from the work of a colleague, Dr Malik, who undertook this for HMIC. And one of the ways in which we think about altering institutional racism, as in the last slide of having a better degree of representation on the clinical board, is to alter the personnel to improve the diversity of the workforce, which brings with it expertise and insights, alongside other strategic commitments the institution needs to pursue. And I was struck when thinking about the ways in which the levels of attrition within the police force, within the institution of policing in Scotland have remained pretty consistent and I detail the numbers in report. But part of the reason the front line -- practising police officers number about one per cent in Police Scotland, despite certain

recruitment drives and if my reading of the numbers are right, they are dropping out -- they're dropping out in equal proportions to joining. So then the question is why?

And one of the observations made or I found from this somatic inspection was the disparities and experiences of initial training and the first few years of experiences within Police Scotland as an institution and so when you look at it, you can see that the numbers of people -- the disparities between white police officers and minority ethnic police officers in terms of, for example, question number 4 "Agree strongly people are comfortable talking about their background and cultural experiences", I mean less than a third of minority ethnic police officers in Police Scotland saying they feel comfortable being different.

Q. And we see "experienced discrimination", it's almost half of those described as minority ethnic and that's in 2021?

A. Yes and "experienced harassment" more than a third. And I suppose I was interested in the degree to which the experience of the institution as a new starter, you know, in your first few years of policing, to some extent then explains why those levels of attrition are so great. Again, this is something institutional, this

is going on throughout Police Scotland, it's not just one area.

If we just go to the next slide, I think there's some qualitative interviews. Here we go. Again, this is the same source. This is all publicly available.

Q. This isn't in your report so this slide --

A. It is. It is in my report, so this would be in my report on pages --

Q. Page 33, sorry, I'm --

A. Yes, and they're the fullest selection of quotations from this HMICS study, but you can see, you know, the nature of the complaints that are being raised that help you to understand why -- why those numbers of attrition are so high.

So concerns raised by police officers about being bullied for praying, that supervisors can bully with impunity, can introduce performance management techniques. If complaint is made by you against your supervisor will destroy your character, discredit you. You know, there's a real kind of qualitative rich series of statements within that report that give an insight into I suppose an institutional culture that helps us to understand why there's such a low level of retention within Police Scotland, despite progress in recruitment. The answer is that people drop out.

Q. And you have contained a number of quotations from the HMICS survey at 3.1.7 on page 33 and what we see in this particular slide is a selection of some of those --

A. Yes.

Q. -- quotations, but there are a larger number for the Chair to consider?

A. Yes, absolutely. It's really valuable information. It's not the kind of information one can otherwise get. You know, to have access to police officers to, have them talk about their experiences, just the routine mundane features, in the knowledge that it may have a negative impact if they're identified, I mean this is really -- it's not -- there isn't a great deal of this information around, so it's important to consider, because I think it's really valuable and gives you an insight into something that's not readily available to see.

Q. And that's come from HMICS?

A. Yes.

Q. Okay. Could we look at the next slide, 19, please. And this takes us to systemic racism.

A. Yes.

Q. And I think this image comes from page 24 of your report, 232.

A. Yes.

Q. Figure M.

A. It does. So this is the employment rate and the employment rate gap for ethnic and racial minorities and white groups of working age. So we've talked about interpersonal racism, we've talked about structural racism, we've talked about institutional racism and then we go on to systemic racism.

I'm not going to dwell very long on this concept, I think this is the only slide I have actually, but I said earlier that systemic racism helps us to understand a number of things, either the depth of racism, but also as a linkage of racism. Well, when we're thinking about the employment rate in Scotland for minorities relative to the white group, if it is the case that social mobility is facilitated by educational outcomes and we know that ethnic and racial minorities do well in educational, disproportionately well relative to the labour market participation, so it's not a supply side issue. So there's something going on where minorities are becoming skilled, achieve the qualifications, but then they're not pulled into the labour market across different sectors in the way in which ought to reflect their educational merit I suppose and/or equivalent training and skills and so on.

And so when you're looking at this, you're looking

at an employment rate gap between the red line, which tracks intervals between 2011 and 2021, the fate of white groups in Scotland, and the blue line which tracks in intervals between 2011 and 2021 the employment fate of minority ethnic groups and when we talk about the employment rate gap, that's the difference between those two final end figures, 73.9 and 62.1, which is currently an 11.7 per cent percentage point gap, which is quite significant -- which is quite significant. But that was the final of the concept slides that I was trying to delineate.

Q. Thank you. Could we maybe move on then to slide 20, which moves away from those definitions of racism and here we see you make specific reference to the report by at that time Dame Eilish and now Lady Angiolini, the report of "the independent review of deaths and serious incidents in police custody". And I should say we hope to hear from Lady Angiolini later in the hearing. But you have highlighted here three bulletpoints which you have provided the source as her 2017 report and I wonder if you could take us through these bulletpoints?

A. Yes.

Q. The first says, and it's in quotation marks:

"it is not uncommon to hear comments from police officers about a young black man having superhuman

strength or being impervious to pain and often wholly inaccurately as the biggest man I have ever encountered."

Can you talk to us about that quotation?

A. Yes. So I said earlier with respect to slide 11 that a number of racial biases were identified by Lady Angiolini in her review and I was struck by her summing up because it mirrored very neatly the academic literature which points to the disparities in perception both amongst lay members in the public but also in the context of policing and event-driven interactions with young black men. So there's a literature which argues that the reason for a prevailing bias of black men as being bigger and stronger and more impervious to pain is partly historical, the history of racial slavery, the history of the dehumanisation of the people of black African descent but which is carried through to contemporary cultural norms in a way that has uncoupled itself from that history and just slopes around as if it's a self-evident truth and it may be as in one of the earlier slides where we talked about what's prototypical, it may be that people watch television and they see black athletes and they say oh there's a black athlete, he's big and he's strong, he's a fast runner. So there are these kind of latent stereotypes which Lady

Angiolini was picking up and talking specifically about the testimonies that she received in the inquiry and the examples that were brought to her specifically in the context of a number of deaths in police custody and which I'm sure we're going to come to in a moment but I thought that was relevant because it connects squarely to the matter at hand and the issue of elevated force used in context and cases of restraint which proceed despite obvious signs of medical crisis.

Q. Let's look at the second bulletpoint. It reads:

"In such circumstances [and then it goes on to say] police officers may also use force and restraint in order to gain compliance to the exclusion of any focus on the wellbeing of the detainee which can ultimately lead to a medical crisis or death."

And is that a quotation or a remark made by Lady Angiolini within this report?

A. It is, yes.

Q. It is and in terms of this issue about the use of force and restraint in particular in order to gain compliance, she seems to be talking about the exclusion of any focus on the wellbeing --

A. Yes.

Q. -- and that could lead to death or medical crisis?

A. Absolutely. Shall we move to the next slide where I try

to ...?

Q. Before we do that, let's just look at that final bulletpoint. It says:

"In several instances detailed by Lady Angiolini perceptions of threat continue long after prolonged periods of restraint."

A. Well, that's again --

Q. So it continues.

A. It certainly does and this goes back to our "superhumanisation" and "the biggest man I have ever seen" stereotype that despite being in the midst of a medical crisis, the perception is still one that, you know, somebody debilitated, often still restrained, presents a sufficient threat not to remove those restraints.

Q. So the perception of harm lingers?

A. Yes, well, and it's consistent, I suppose, with some of the slides and studies that we have seen which show that this imagined threat, this stereotype, which manifests in these biases is often independent of reality.

Q. Thank you, let's look at the next slide, 21, and this is a picture in the Macpherson inquiry from 1999?

A. Yes.

Q. I'll just read it out.

"PC Bethel described [this is a quote] Mr Brooks as

very distressed and very excitable and upset."

Now, my understanding was that Duwayne Brooks was the friend of Mr Lawrence.

A. Yes.

Q. You actually talk about this in your report?

A. Yes.

Q. And in her answer to a 1994 questionnaire, she, presumably PC Bethel is a she, said that he was "aggressive, antipolice, distressed and unhelpful". To the Kent police she said that "Mr Brooks was powerful and physically intimidating and that his behaviour was horrendous."

"We do not believe that a young white man in a similar position would have been dealt with in the same way. He simply was not treated professionally and appropriately and according to his needs."

And that relates to Duwayne Brooks.

A. It does, it does indeed, and the Kent police interview -- the Kent police, as you may well know, conducted a review into the -- faulty investigation into Stephen Lawrence's murder at the bus stop. But the reason I have put this slide up is partly that it takes us back to a common theme but I mean Duwayne Brooks was not a big man, Duwayne Brooks was a teenager alongside Stephen Lawrence, but the perception of him as powerful

and physically intimidating shows to some extent the chain of work that that perception of physical formidability does. I mean, we're talking here about a victim of a racist murder. He is alongside Stephen Lawrence, he was not the hostile -- you know, he was -- so he should have been treated as a victim, as a survivor of a racist attack, as an important witness, but he was instead presented as powerful and physically intimidating, as aggressive, antipolice, distressed and unhelpful. Well, you know, I think he had every right possibly to be upset. But again it's a superhumanisation bias which enters any description of a young black man anywhere near police custody in the context of crisis and I think it's notable that the Macpherson Inquiry identified that as a prevailing theme yet it's also striking how repetitive it is within all the documents I looked at and the number of cases of the use of force against black men in police custody.

Q. So even where that person could be categorised as a victim that that perception remains and is very strong.

A. Yes, absolutely.

Q. Can we look at the final -- I think it's the final slide.

A. Yes.

Q. And given the time, we may only be able to begin this.

A. Okay.

Q. But do we see that what you've done here in this final slide is on the left to set out so that three selected actual cases or real life situations and that is Christopher Alder from 1998 --

LORD BRACADALE: Ms Grahame, I think it would make more sense just to stop at this point and we'll start afresh with this slide in the morning. We'll continue with your evidence at 10 o'clock tomorrow morning.

(4.12 pm)

(The hearing was adjourned to 10.00 am on Friday, 6 June, 2024)

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