1 Tuesday, 2 July 2024
2 (10.12 am)
3 LORD BRACDALE: Now, Ms Grahame, I understand you want to clarify a
4 matter.
5 MS GRAHAME: Yes, thank you. On Friday when I was asking Sir Iain
6 Livingstone
7 questions about the results of the Police Scotland survey which
8 was PS 18903
9 at page 8, I put to Sir Iain the known figure that 40 per cent of
10 respondents
11 agreed that institutional racism is an issue for Police Scotland
12 and I
13 inferred that 60 per cent disagreed.
14 I'm now told that this overlooked the "don't know"
15 and "neither" categories and the true figure for
16 respondents disagreeing with the statement was 47 per
17 cent and I simply wish for that to be noted on the
18 record today if I may.
19 LORD BRACADALE: Thank you. Can we have the witness back in, please.
20 Good
21 morning, Mr Allen.
22 A. Good morning, sir.
23 LORD BRACADALE: Can you say the words of the affirmation after me.
24 RETIRED DCC STEVE ALLEN (AFFIRMED)
25 LORD BRACADALE: Ms Grahame.
26 MS GRAHAME: Thank you.

1 Examination-in-chief by MS GRAHAME

2 Q. Good morning, Mr Allen.

3 A. Hello.

4 Q. Are you Steve Allen?

5 A. I am.

6 Q. What age are you?

7 A. 60.

8 Q. And you have provided a statement to the Inquiry, which

9 I'll come to in a moment, but am I right in saying that

10 you're a former police officer?

11 A. I am.

12 Q. In 1985 you joined Avon And Somerset Constabulary and

13 you remained there until 2003?

14 A. Yes.

15 Q. By which time you were an acting ACC?

16 A. Yes.

17 Q. And between 2003 and 2010 you worked in the Met?

18 A. I did.

19 Q. And in January 2010 you joined Lothian and Borders

20 Police?

21 A. That's correct.

22 Q. And you worked there until 2013 when Police Scotland was

23 formed, we've heard that was on 1 April 2018, and then

24 you continued to work for Police Scotland until

25 December 2015?

26 A. That's correct. I think technically I joined

1 Police Scotland at the end of 2012. I think the
2 executive team was formed then, so technically that
3 would have been my date but, yes.
4 Q. So you were actually brought in to police with a view to
5 sort of -- Police Scotland was being set up?
6 A. Yes.
7 Q. Created from 1 April 2013?
8 A. That's right.
9 Q. And when you were brought in that was envisaged, it was
10 known and you were going to be part of that team?
11 A. That's right. So the senior executive team of the chief
12 and certainly the four deputies were selected, to the
13 best of my recollection, towards the end of 2012 and
14 started to take up post gradually and incrementally
15 prior to 1 April.
16 Q. Thank you. And so in 2015, when we've heard Mr Bayoh
17 died on 3 May 2015, you were within Police Scotland and
18 working for Police Scotland?
19 A. I was, yes. At a point I was -- from I think the
20 beginning of 2015 I had been seconded into the
21 Scottish Government so was working on a variety of
22 projects within Scottish Government, but I was still
23 part of Police Scotland and still absolutely take
24 responsibility and accountability for my part in shaping
25 the organisation it was in 2015.
26 Q. Thank you. And as I have said, you retired in

1 December 2015 and at that time your rank was DCC?
2 A. That's correct.
3 Q. And you had held that rank since, was it, 2013 or 2012
4 when you joined Police Scotland?
5 A. So I was the Deputy Chief Constable in Lothian and
6 Borders from 2010 and then Deputy Chief Constable in
7 Police Scotland from its inception, yes.
8 Q. Thank you. But in the time that you were within
9 Police Scotland, you did not perform a response-type
10 role and you were not present at the events on
11 3 May 2015?
12 A. No, I wasn't, no.
13 Q. Thank you. And I think you said in your Inquiry
14 statement that since your retirement you have not had
15 any contact with your former colleagues from
16 Police Scotland?
17 A. No, and that's really just to make the point that my
18 perspectives and my opinions are kind of rooted in
19 things as they were in 2015, so I haven't had that
20 contact so I have no kind of perspective and knowledge
21 about the organisation now.
22 Q. Thank you. Let's turn to your involvement with
23 the Inquiry. You will be aware, if you've watched any
24 of the evidence, that there is a blue folder sitting in
25 front of you on the desk and that blue folder, please
26 open it up, it's got your documents in it. You should

1 have a hard copy of your statement which I'm going to
2 turn to.
3 A. Yes.
4 Q. Now, as I go through your evidence today, you will see
5 perhaps paragraphs of your statement brought up on the
6 screen in front of you and I'll refer to that, I may
7 read them out and then I'll ask you questions. But if
8 you are the sort of person that prefers a hard copy, you
9 have got the hard copy in front of you.
10 A. Okay. Thank you.
11 Q. Feel free to use that hard copy in any way you wish that
12 would assist you and if -- when going through your
13 evidence today, if there's anything we don't have that
14 you think would be particularly useful, please let me
15 know and I'll see if I can get it at the break.
16 A. Okay. Yes.
17 Q. Let's look at your Inquiry statement, SBPI 00531. And
18 you'll hopefully recognise this. It was taken on
19 29 January 2024 and if we can look at the final page,
20 I think there's 55 pages, if we look at the final page.
21 Now, we will hopefully see an area where there is --
22 thank you. There we are. It says "signature of
23 witness", now, on the screen, this version is redacted,
24 so your signature cannot be seen and we see it was
25 signed on 15 April 2024, but am I right in saying your
26 hard copy and hopefully you recall signing the pages of

1 your statement?
2 A. I do, yes.
3 Q. Thanks. And if we look at the last paragraph, 174 which
4 is on the screen, it states:
5 "I believe the facts stated in this witness
6 statement are true. I understand that this statement
7 may form part of the evidence before the Inquiry and be
8 published on the Inquiry's website."
9 Now, before I move on and ask you to confirm that,
10 I understand there are some elements of your statement
11 you would like to correct having reflected on it and
12 reread it for today; is that correct?
13 A. That's correct, yes.
14 Q. Could we look at paragraph 44. I will be coming back to
15 these paragraphs as part of the examination, but if we
16 can look at paragraph 44 this relates to -- 44, please.
17 And you'll see this is where you talk about a case that
18 you recall involving a man called Michael Menson and it
19 involved his death. Now you wish to make a correction
20 to this paragraph?
21 A. I do, please. It doesn't change the context or the
22 reason that I've included it in my statement, but just
23 factually in terms of the last sentence and the outcome
24 what actually happened was two of the perpetrators were
25 arrested and convicted in the United Kingdom, third
26 perpetrator was traced to Cyprus, there was no

1 extradition treaty and UK officers negotiated with
2 Cyprus authorities to have the man charged and
3 prosecuted under local legislation and he was convicted
4 and imprisoned in particular Cyprus, so factually I'm
5 inaccurate in that sentence.
6 Q. But subject to that correction, are you content with
7 paragraph 44?
8 A. Yes.
9 Q. Thank you. And then I believe there's paragraph 94, you
10 would like to say something about this. And this
11 relates to a comment you have made in relation to the
12 opening statement by Police Scotland, here we are, and
13 you mention the opening statement of the Chief Constable
14 who was a core participant at this Inquiry and I believe
15 you wish to make a slight revision to this paragraph; is
16 that right?
17 A. Yes, I do and this is simply an error on my part. I
18 have made the statement that there was no mention of the
19 term "institutional racism" in the opening statement of
20 the Chief Constable. I have now reread it and there is
21 a mention of it so --
22 Q. You wish to correct that?
23 A. I wish to correct it, yes.
24 Q. Thank you. And then finally paragraph 51, if we can
25 move to that.
26 A. Yes, thank you, and this is not an error, but I think

1 I can improve understanding of what I have written so I
2 was asked the question about the percentage of
3 Scotland's total population from ethnic minority groups.
4 I quoted here the figure something less than 1 per cent.
5 The less than 1 per cent refers to census data relating
6 to black African and black British respondents, people
7 who self-identified that way. The actual number of --
8 the actual percentage of minority ethnic respondents was
9 in the region of 4 per cent, I think, so when I compare
10 it with 60 per cent of the population in the Borough of
11 Newham, the real comparison is with the 4 per cent not
12 with the something less than 1 per cent.
13 Q. Thank you. So again, subject to that revisal, can we go
14 back to paragraph 174 which is the final paragraph of
15 your statement, and I read this a moment ago, that you
16 believed the facts stated in the witness statement were
17 true and you understand this statement may form part of
18 the evidence before the Inquiry and be published on the
19 Inquiry's website.
20 So subject to those three revisals, are you now
21 content that the facts stated by you in the witness
22 statement are true and that they're correct?
23 A. I am.
24 Q. Thank you. And you did understand when you signed it
25 that this would form part of the evidence available to
26 the Chair and it will be published on the Inquiry's

1 website after you have completed your evidence?
2 A. I did.
3 Q. Thank you. I would like to begin, first of all, with
4 looking at your experience with the discipline system
5 and misconduct system in Police Scotland. Could we look
6 at two paragraphs, please, of your Inquiry statement, 12
7 and 13. Let's look at 12 first. Here we are:
8 "The entire time I worked with Lothian and Borders
9 Police I was in the role of DCC. My work with Lothian
10 and Borders Police included leading the response to
11 issues raised by the family following the racist murder
12 of Simon San. As a direct consequence of this work, I
13 commissioned a project to develop a critical incident
14 training programme for police across Scotland and the
15 work continued through to the formation of
16 Police Scotland."
17 And if we can look at 13:
18 "The statutory role for the deputy is running the
19 discipline system. I was responsible for conduct of the
20 force. The start of every day for me was a briefing
21 from my professional standards team on current cases,
22 new cases, and I was required to chair panels,
23 particularly about poorly performing probationary
24 officers, deciding whether they stayed with the service
25 or whether they didn't. At that level, you have a high
26 degree of discretionary time. I chose to invest a lot

1 of mine into the equality and diversity work and to
2 engaging with various groups and opinion formers out in
3 the community."
4 We have heard evidence about the disproportionate
5 impact of the discipline system or the conduct system on
6 black and minority ethnic officers and I am interested
7 in whether you had any views on whether you considered
8 those officers to be over-disciplined?
9 A. Well, it's from my experience in the Metropolitan Police
10 Service, I would say an unequivocal, yes, and whilst
11 I don't have it at my fingertips, the data would have
12 supported that too. I'm afraid that I can't say from
13 data that he was available to me, because I don't
14 remember any being available to me, whether or not that
15 was the case in Lothian and Borders.
16 Q. Right.
17 A. Sorry, just to add, my response to that based on
18 anecdotal evidence, ie conversations with officers and
19 particularly officers from minority communities, is that
20 they certainly had a perception that that was the case
21 and I think -- I think there's a sense in which I am not
22 the best person to ask because much of the -- much of
23 the differential treatment I think occurred outside of
24 the formal discipline process. So within the grievance
25 process, within informal processes that didn't get to
26 grievance, my experience and my recollection of the

1 accounts of others is that those were the places where
2 things were most keenly felt in terms of differential
3 treatment, if that makes sense.
4 Q. Thank you, yes. We've heard evidence from a
5 Paul Castledine who has given evidence to the Inquiry
6 and at one time he was the Chair of SEMPER.
7 A. Right.
8 Q. And his evidence was:
9 "I think that the statistic came out some years
10 before I started was that a minority ethnic police
11 officer was three times more likely to be interviewed by
12 their colleagues than in a white officer in connection
13 with professional standards. That was sometimes just
14 purely because they looked at it as it's really
15 important that we do this right, because this person is
16 from a minority background and it was quite shocking to
17 me."
18 In terms of that evidence from Mr Castledine, would
19 that accord with your own experiences?
20 A. Yes, it would. I think there was a -- we may come on
21 to. I did some work -- I was tasked whilst in the Met
22 by Commissioner to have a look at something in the
23 region of 2023 ongoing grievances and employment
24 tribunals and to try and resolve them. They had been
25 ongoing for I think the criteria was 18 months or longer
26 and having the opportunity to sit down with that many

1 officers kind of within a very compressed period of time
2 and listen to the stories, what -- sorry, the accounts,
3 one of the things that became -- became very clear was
4 that it was a common experience and it was often to do
5 with the management of performance, so the individual
6 officer's performance, and the accounts were very
7 consistent in that rather than where they felt a white
8 colleague would be maybe taken to one side, had a word
9 with, given a kind of personal target for the next month
10 or so, because -- because they were minority ethnic
11 officers there was a trepidation from frontline
12 supervisors about engaging them in that way, feeling
13 that they needed to revert to formal process from the
14 outset and that had -- it had a way of just snowballing.
15 So a sergeant would fail to deal with a performance
16 issue from an individual, an individual would then
17 potentially go to a formal process, the individual would
18 ask why formal process when others not and we're already
19 at the stage where that officer is difficult so -- and I
20 characterise this oversimply, but what would happen then
21 is the sergeant would say, this could be tricky, I had
22 better refer this to the inspector. So the inspector
23 would get involved and then quite often in that range of
24 cases that I was dealing with, the subject officer is
25 now feeling even more kind of differentially treated
26 because why is the inspector involved in this and so the

1 thing -- the tension and the thing would escalate so
2 that the inspector would then go to the chief inspector.
3 And then because the chief inspector was involved the
4 chief inspector would go and speak to the organisation's
5 lawyers just to make sure they were doing at the right
6 thing and once you have got a lawyer -- forgive me --
7 once you have got a lawyer on one side, then the person
8 on the other side feels they need to engage with
9 professional advice and you suddenly find yourself in a
10 position where two years later you're stuck in grievance
11 process or an employment tribunal process where there
12 seems no way through.
13 And when you deconstruct it and take it back to
14 where it started, you think how on earth did we ever get
15 here and I saw that -- I saw that, as I say, it was
16 either everyone I spoke to had got into a room together
17 and agreed that that was their story or they were
18 telling the truth, because it came from so many
19 different individuals as part of the account of how the
20 organisation seemed -- just seemed incapable of adopting
21 a kind of person-centred approach to resolving issues in
22 the workplace. So I think that's a long answer but --
23 Q. That's helpful, thank you. When was this that you were
24 asked to deal with 20 or 23 employment tribunal issues?
25 A. So this would have been in I think 2004.
26 Q. Right.

1 A. And the reason -- well, I can locate it, because I had
2 not long gone to the Met and it was at the time of the
3 Morris Inquiry. So there was a public inquiry being led
4 by I think it was Sir Bill Morris at the time into the
5 internal equality and diversity issues in the Met,
6 particularly around employment. And so that inquiry was
7 running and, at the risk of sounding cynical, I think
8 the Met identified a need to clear its books as best it
9 could, because these were all issues and many of these
10 staff and officers were potentially giving evidence to
11 the Morris Inquiry, so it was around that time, 2004,
12 and I think the whole process -- the whole process
13 probably occupied significant amounts of my time for the
14 best part of a year.
15 Q. Right. And you talked about the sergeant and
16 trepidation. Do you -- did you understand what was the
17 cause of that trepidation? If an officer had a
18 performance issue, why there was trepidation about a
19 line manager dealing with that?
20 A. If it was a black or minority ethnic officer?
21 Q. Yes.
22 A. I suspect that's the answer. I mean I think -- I think
23 that there would have been a perception, certainly at
24 that time, that if they got the process wrong or if they
25 said the wrong thing or they were perceived as being
26 overbearing that the officer would go and speak to a

1 staff support association, they would get involved, and
2 then it would be the supervisor then who kind of ends up
3 taking the rap for --
4 Q. Right.
5 A. -- that whole set of circumstances. So I think it just
6 without -- it sounds like I'm oversimplifying it and
7 kind of exaggerating it, but I think there was a
8 perceived and, obviously, it's not everyone, but in
9 generic terms a perceived heightened level of personal
10 risk about engaging in a contrary process with a black
11 or minority ethnic officer and probably women and
12 probably gay officers.
13 Q. Thank you. And you said either everyone got together to
14 tell a story, but presumably there was no suggestion
15 that all of the individual subjects were doing that?
16 A. No, no, no.
17 Q. We've also heard evidence from -- sorry, we also have an
18 Inquiry statement from a Sandra Delandes-Clark and we
19 hope to hear evidence from her in the future in this
20 hearing and her Inquiry statement talks -- well, she was
21 asked about whether black and minority ethnic officers
22 and staff faced being over-disciplined when they were
23 the subject of a complaint as compared to a white
24 colleague in a similar or equivalent position. And her
25 answer was:
26 "There is a widespread belief that like BME officers

1 and staff in England and Wales, BME employees in
2 Scotland are over-disciplined. However, as race and
3 ethnicity of the subjects of complaints is not recorded
4 by the Professional Standards Department, we cannot
5 validate or refute that claim."
6 Would that be consistent with your own impression
7 that there is a lack of data or there was a lack of data
8 at that time?
9 A. Yes.
10 Q. But also that there was this belief that officers were
11 over-disciplined if they were black or ethnic minority?
12 A. Yes, I would say from my time at Lothian and Borders and
13 probably Police Scotland that that was certainly true.
14 I mean I think another factor, if I may, that bears on
15 it is on the visibility of this as an issue is there are
16 simply so few officers from minority ethnic communities
17 in policing or there were in policing in Scotland, but
18 it wasn't like you could physically see people coming
19 through the process so there could easily be
20 overrepresented, but I think the numbers were less than
21 1 per cent of the service in certainly in
22 Police Scotland, I can't imagine it was any different in
23 Lothian and Borders, and so whereas -- again, forgive me
24 for keep going back to the Met -- whereas in the Met the
25 actual physical number of officers who would come and
26 speak to you or who would talk about the issue was much

1 greater than it would be in a force like Lothian and
2 Borders, which had 2,700 officers as opposed to the
3 30-something thousand that were in the Met. So it's
4 just not in your consciousness in quite the same way,
5 does that --
6 Q. Because of the total numbers?
7 A. Because the absolute numbers are so much smaller.
8 Q. Yes. And in the absence of data, it's difficult to
9 assess percentages or disproportionality?
10 A. Yes, I mean -- yes, the absence of data is, when you
11 look back on it, astonishing but, yes.
12 Q. And in her Inquiry statement Ms Deslandes-Clark also
13 says:
14 "BME officers and staff also believe that their
15 ethnic difference does attract more scrutiny from
16 supervises and colleagues. That could be due to
17 stereotyping, unfamiliarity or ignorance. It's been
18 likened to the proverbial O living in an X world, where
19 O is always under the spotlight and everything he or she
20 does is over-analysed. This can often lead to them
21 being reprimanded more frequently than their white
22 colleagues."
23 Again, would you have any comments to make about
24 that?
25 A. I -- I would take Sandra's evidence on that above mine.
26 I don't have the lived experience of being a minority

1 ethnic officer. I can report to you that officers would
2 relay that to me at times, but I mean I would -- I have
3 worked with Sandra in the past and I would take Sandra's
4 evidence on that.
5 Q. Would that be akin to your own experiences in your work
6 with Lothian and Borders, that black and ethnic minority
7 officers believe that their ethnic difference does
8 attract more scrutiny?
9 A. It was a conversation I had on a number of occasions
10 with black officers in the force, yes.
11 Q. Thank you. I would like to move on to your role in the
12 Met, if I may. And we said earlier that you were there
13 between 2003 and 2010?
14 A. Yes.
15 Q. Could we look at paragraph 7, please, of your Inquiry
16 statement. Here we are:
17 "My roles with the Met included the following:
18 Commander Diversity Directorate responsible for racial
19 and violent crime task force; hate crime; domestic
20 violence, honour violence and forced marriage (national
21 responsibility); policy on rape and sexual offences;
22 recruitment and retention initiatives for minority
23 communities; strategic independent advice; family
24 liaison policy and training; strategic engagement with
25 staff support associations."
26 I would like to look through the different elements.

1 First of all, staff support associations, you have
2 mentioned staff support associations. Who were these
3 staff support associations in the Met?
4 A. Gosh.
5 Q. Were they the equivalent of SEMPER?
6 A. I won't remember them all. There were around 20
7 different ones I think by the time I left. The largest
8 and most established and most active would have been the
9 Metropolitan Police Black Police Association, which was
10 a branch of the National Black Police Association and we
11 had -- so the Met had its own branches of the
12 Gay Police Association, we had a
13 Turkish Police Association, we had the British
14 Association of Women Police. There were around 20
15 different associations, so I think --
16 Muslim Police Association -- and I think it's right to
17 say that SEMPER -- SEMPER represents a slightly wider
18 group of officers than each of those did in its own
19 right.
20 Q. All right. And would they cover what we would now refer
21 to as protected characteristics?
22 A. Yes.
23 Q. When you were in the Metropolitan Police Service, you
24 have said you were the commander of the Diversity
25 Directorate and you talk about a number of aspects to do
26 with -- obviously, we're interested in race.

1 A. Yes.
2 Q. Could you help the Chair understand what your role
3 involved?
4 A. Yes, so the Diversity Directorate -- I have to get my
5 history right here. The Diversity Directorate grew of
6 the Met's response primarily to the Macpherson Inquiry,
7 so that was happening I think I'm right in 2008 --
8 sorry -- 1998, 1999.
9 Q. We have heard the report came out in 1999?
10 A. Right. So during that Inquiry, and based on some of the
11 issues that were coming out of it, the Metropolitan
12 Police Commander John Grieve others established what
13 became known as the Racial and Violent Crime Task Force
14 and the Racial and Violent Crime Task Force is
15 referenced in Macpherson's report and is cited as -- is
16 cited as a positive, one of the very few in there, for
17 the Met emerging from the discussions that were taking
18 place at the time.
19 The Racial and Violent Crime Task Force was
20 essentially -- essentially highly competent detectives
21 who began I think initially to reinvestigate some of the
22 signal hate crimes that had occurred so obviously racist
23 murder of Stephen Lawrence, murder of Michael Menson,
24 death of Roger Sylvester and I think the death of
25 Ricky Reel, I think they were the cases. And what they
26 did was try to take innovative approaches to these

1 reinvestigations, so very much based on a kind of
2 proactive approach to intelligence and intelligence
3 gathering, very much based on seeking external views and
4 challenge to the way in which inquiries were being
5 undertaken. Crucially, and I can go back into the
6 history slightly if you need me to, but crucially picked
7 up the idea of family liaison officers from Avon and
8 Somerset, where I think it had kind of originated and
9 took as one of their mottos the learning that says:
10 "An issue for the family is an issue for us."
11 So started to talk about families as being experts
12 as part of the investigation, because they are expert --
13 who better knows -- so if you're talking about homicide,
14 who better knows the victim's, who better knows the
15 victim's life circumstances, loves, fears, hates, all
16 the rest of it, so actually bringing families in to
17 these inquiries as an expert part of the investigation.
18 And this is where a lot of the critical incident
19 management thinking came from, which, again, we can talk
20 about later.
21 So the Racial and Violent Crime Task Force
22 established itself during the period of the
23 Macpherson Inquiry and because of the nature -- because
24 it tried to take this kind of inclusive view and
25 innovative view about how it investigated things, it
26 inevitably kind of attracted other responsibilities, so,

1 for example, I list hate crime. So the unit kind of
2 took on policy responsibility for the Met's response to
3 hate crime. Allied with that, these other things that
4 we see here, domestic violence.
5 So over a period of time and by the time I got to
6 the Met in 2003, so we're now four, five years later,
7 the Racial and Violent Crime Task Force was part of the
8 Diversity Directorate. So Racial and Violent Crime Task
9 Force, when I took it on, was two fully capable murder
10 teams who took their place in the on-call murder team
11 roster for the whole organisation, but their particular
12 focus was on responding to hate-motivated serious
13 assaults and homicides.
14 But on top of the Racial and Violent Crime Task
15 force had attracted all these other issues, because
16 I guess it had become -- because of the particular
17 people involved at the time, it had become a centre of
18 excellence and centre of kind of intellectual property
19 in the Met for issues around equality, diversity and,
20 crucially, and I think where, you know, my reflection on
21 it, and stop me if I'm wandering off, but my reflections
22 on it crucially where they achieved a strategic success
23 was that the first time I think the service had really
24 begun to understand that diversity and equality are not
25 part of the HR function and a course you go on, but
26 they're actually an operating philosophy which sits

1 behind successful policing outcomes.

2 So if you want to be the best murder detective that
3 the Met has got, you have to understand these issues and
4 you have to know how to operationalise them and you have
5 to understand why they matter to you achieving success
6 as an operational officer. So if you want to be the
7 best cop you can be, you have got to absolutely be
8 steeped and understand and know why these things matter,
9 rather than just be able to kind of recite what you
10 learnt on the diversity course.

11 So anyway so it become this kind of centre of
12 excellence and driving Met policy and response. And one
13 of the things that then got added on -- so it had all
14 these operational functions and there was then a team
15 set up and I think -- I can't remember what they're
16 called, it doesn't matter -- but they were a team set up
17 separate from the human resources function to take on
18 responsibility for creative ways of addressing
19 recruitment and retention issues for minority
20 communities, as I said there. So that became a separate
21 team within the Diversity Directorate. Strategic
22 independent advice was part of the operational response.
23 Again, we can come back to that. Family liaison policy,
24 we can talk me about that.

25 And then strategic engagement with staff support
26 associations, because, again, one of the issues around

1 the staff support associations was understanding the
2 multiplier effect that they could bring to operational
3 effectiveness. So what I mean by that is and probably
4 exemplify it by the way that the structure went. So
5 there was set up a thing called -- get it right -- the
6 Cultural Resources Unit and the idea behind this was --
7 and it wasn't just for minority ethnic staff, but the
8 idea was if you had -- as an individual, you believed
9 that you had something, some personal knowledge, some
10 personal experience that you could offer to the
11 organisation to be used in circumstances where we needed
12 to access expertise about something, that you basically
13 went on an on-call list and put yourself on the
14 register. So you could for example -- no -- I won't do
15 that.
16 So let's say you have grown up -- you're an officer
17 from a Sikh background and you want -- you think that
18 that's an asset to the organisation, that knowledge,
19 that experience, that's an asset to the organisation,
20 and the organisation wasn't using that. So the idea was
21 that through the staff support associations and into
22 this Cultural Resources Unit that you could actually --
23 then let's say an incident happened within the Sikh
24 community and that night, within an hour of the senior
25 investigating officer attending, they wanted someone
26 they could talk to about potential issues in the

1 community, about just to broaden their perceptive on
2 what they were dealing with, then you would find someone
3 on call, a police officer who could be there
4 straightaway, and who could provide that advice.
5 So but -- as I say, it wasn't just about black and
6 minority ethnic officers, because the example I always
7 used when I was talking about it was the people like me
8 who came from St Albans in Hertfordshire who grew up in
9 a very strict Baptist family and whose dad was Chair of
10 the Rotary Club, now maybe an incident happened in a
11 Rotary Club in Hertfordshire and the Met needed
12 something or within the Baptist community. So it didn't
13 matter that I was a white officer, but potentially I had
14 some life experience and some knowledge that could then
15 be applied and be useful to the Met in terms delivering
16 effective investigations.
17 So the staff support associations that was one way
18 of kind of effectively, I think, engaging them and
19 making their -- role because all of us who are/were
20 police officers most want to do the best we can for our
21 communities, we want to deliver safer increased
22 wellbeing in communities. And staff support
23 associations are not just about representing their
24 members when the grievance goes wrong, they actually
25 have an operational benefit to bring into the policing
26 environment and if we fail to use that, then we're just

1 wasting a massive resource and so -- anyway, so the
2 Diversity Directorate kind of in a strange away wrapped
3 all that up and my job was to kind of manage all those
4 different elements of it and kind of represent the force
5 I guess in things.
6 So I sat on the Stephen Lawrence -- the
7 Home Secretary Stephen Lawrence steering group for a
8 while so if there was a -- there were a number of
9 inquiry reports that came our way would list the
10 recommendations around equality and diversity, they
11 would invariable land within the Diversity Directorate.
12 Anyway, I'll stop there.
13 Q. Thank you very much. Just to recap slightly on the
14 information you've given the Chair, the Racial and
15 Violent Crime Task Force, was this the task force that
16 contained the two full murder teams?
17 A. Yes, that was what it composed of, yes.
18 Q. How many people, officers were involved in that; can you
19 give us an impression?
20 A. I'm just trying to think, because I had intelligence
21 teams. I would say in the Racial and Violent Crime Task
22 Force of itself probably 100 people.
23 Q. And so if an unexplained death had occurred --
24 A. Yes.
25 Q. -- and there was to be an investigation into that death
26 and the subject, the deceased, was black --

1 A. Yes.
2 Q. -- would it be one of these teams with their -- you said
3 it was a centre of excellence, they had experience,
4 would it be one of them that would priorities that
5 particular death?
6 A. The answer to that in my time is probably not, not
7 necessarily. It would -- the -- not necessarily. So
8 I'm thinking of the investigation into the murder of
9 Damilola Taylor.
10 Q. Right.
11 A. Which was obviously a very high-profile murder of a
12 young black man and that investigation was carried out
13 by the mainstream murder command at the Met. So I think
14 in its early days, probably before my time, the answer
15 is more likely to have been, yes. During -- certainly
16 when I arrived one of the teams was -- so I was the gold
17 commander for the investigation that preceded the second
18 Inquest into the New Cross fire, so New Cross Fire in
19 1981, 14 black young people killed, and it went to a
20 second Inquest in 2014 -- 2004. And we effectively
21 reinvestigated that whole set of circumstances. So
22 certainly of those teams was being that.
23 I would think by 2004, 2005, they probably would
24 have got involved -- they probably would have been
25 called in had it -- my language is going to be really
26 clumsy here. Had it been a homicide of someone from a

1 minority community where it became clear that the police
2 had got -- had already got the response to the family,
3 to the community wrong, if that makes sense?
4 Q. Yes.
5 A. Probably at the risk of going on too long, just to say
6 that in 2006, 2005, my last year, my last period in the
7 Diversity Directorate, I conducted a pretty significant
8 reform of that function and for a number of reasons
9 those murder teams from the Racial and Violent Crime
10 Task Force got let's call it mainstreamed into the
11 normal murder command operations of the Met.
12 Q. And did that then embed their excellence and their
13 experience into a wider group of murder teams?
14 A. It was a bit of a two-way process. One of the reasons
15 for doing that the mainstream homicide commander of
16 the Met was actually getting better at it than us -- us,
17 the task force, because they had a higher volume of --
18 higher volume of cases to deal with. And also, you
19 know, so much of this is about the leadership and the
20 senior officers and the senior officers in the murder
21 command by that time, as I say, they had dealt with
22 Damilola and a number of other cases, and there was a
23 real -- there was a real commitment to the principles of
24 critical incident management, a real engagement with
25 independent advice, strategic independent advice, a
26 real -- a real understanding of the -- the importance,

1 you know -- and it always seems like a --
2 It always seems like a small issue, but it's come up
3 for me a number of times in my service, the absolute
4 importance of if the victim, the family, any other
5 person say this is a racist incident, of recording it as
6 a racist incident, making sure the family are clear that
7 you have listened and you have recorded it as a racist
8 incident and then understanding the consequences that
9 flow from that in terms of the proactivity of your
10 investigation to discern any evidence that there might
11 be of a racist motivation. And it sounds like a small
12 detail in terms of a homicide investigation, but in this
13 context, we see things -- you know, I have seen things
14 go wrong so often and we may or may not talk about
15 Simon San, but that was fundamentally the issue there, a
16 reluctance to say. You know, Macpherson's definition is
17 clear and so if someone from the family says, we believe
18 this is a racist incident, well, it is, there we are,
19 according to definition. And the service and sometimes
20 it's partners have got themselves very I think -- very
21 muddled about the implications of that and I can talk
22 about it for ages.
23 Q. That's very helpful. You have talked earlier today
24 about the importance of bringing families into the
25 investigation and I think you described those as experts
26 who better knows the victim's circumstances?

1 A. Sure.
2 Q. So you can see benefits to an investigation to be
3 engaging with the families in relation to that matter?
4 A. Absolutely fundamental, absolutely fundamental. I
5 have -- over the course of my service I have had the
6 privilege of working with -- doing quite a lot of work
7 with Neville Lawrence, with the families of the New
8 Cross Fire victims, I led the UK family liaison response
9 to the British victims of the tsunami in 2004/2005.
10 Q. In Thailand?
11 A. In Thailand and I established and ran for the first
12 three weeks the, I think it was the first in the UK,
13 what we then called the Family Assistance Centre in the
14 immediate aftermath of the London bombings in 2005,
15 which was a one-stop shop basically for families and
16 anyone else affected to come and access the services
17 they required and others that I have forgotten, but
18 I had --
19 I suppose the point I'm trying to make is that
20 I couldn't conceive now of a successful homicide
21 investigation which does not in some way or another seek
22 to work alongside the family. Now, that makes it sound
23 really easy and sometimes it's very complicated, but it
24 seems to me that any investigating officer that doesn't
25 regard the family as, you know, on pretty much near the
26 top of their list of resources is not thinking through

1 the whole picture and certainly that would be my
2 experience and, you know, it's, yes --
3 Q. All right. You mentioned a Family Assistance Centre?
4 A. Yes.
5 Q. Could you help us understand what that was?
6 A. Yes. I can do it fairly briefly. So you obviously
7 recall the bombs in July 2005, I think there were 56
8 victims, and essentially what the Family Assistance
9 Centre did, and it was modeled on what was done in the
10 immediate aftermath of 9/11. So in one single building
11 we essentially collocated all the different services
12 that a victim, victim's family, anyone affected by those
13 incidents could access in a single place.
14 So rather than having to go somewhere for a bit of
15 legal advice and somewhere for some counselling and
16 somewhere else to see the family liaison officer and
17 somewhere else to get an intelligence update from the
18 SO, we put all those services in a single building.
19 Now, because of the kind of exigencies of everything
20 that was going on, I think we opened it -- it was
21 day two or day three, but to start with it was built we
22 built it in a gym that the local authority made
23 available to us and it was pretty make do and mend but
24 after a few days we were able to move it to the Royal
25 Horticultural Hall, so a massive public space and Ikea
26 came in and built the inside of it, so it was a really

1 spectacular kind of facility for people.
2 But the idea was that actually we wrap our services
3 around the family, rather than saying to the family you
4 go out and access it from each individual agency. And
5 it was also the centre of -- you know, it was just
6 somewhere as well -- you know, a cafe, somewhere people
7 could come and could meet and talk to other people who
8 were sharing some of that experience, so it was a
9 remarkable experience being part of that.
10 Q. Thank you. I would like to move on, please, and ask you
11 about your role in Lothian and Borders Police and can we
12 look at paragraph 12 again, please. We touched on this
13 earlier and it does mention Simon San.
14 A. Yes.
15 Q. Paragraph 12:
16 "The entire time I worked with Lothian and Borders
17 Police I was in the role of DCC. My work with Lothian
18 and Borders Police included leading the response to
19 issues raised by the family following the racist murder
20 of Simon San. As a direct consequence of this work, I
21 commissioned a project to develop a critical incident
22 training programme for police across Scotland. The work
23 continued through to the formation of Police Scotland."
24 And am I right in saying you were the ACC at the
25 time of Simon San, you were an ACC with Lothian and
26 Borders Police?

1 A. No, I was the deputy.

2 Q. Sorry, my mistake.

3 A. I was only ever the deputy in Lothian and Borders.

4 Q. My mistake, I apologise.

5 A. That's all right.

6 Q. I'll ask you about Simon San first and then, if I may,

7 I'll turn to the critical incident training programme --

8 A. Yes.

9 Q. -- for police that I would like to ask you about.

10 A. Yes.

11 Q. Can you tell us then what role you took at that time in

12 relation to the death of Simon San?

13 A. Yes, in two parts. The first was that on the morning

14 that Simon died, I chaired the morning meeting of the

15 four senior officers, so basically half a dozen of us

16 would sit down every morning and just very quickly run

17 through significant operational incidents. Simon's

18 death obviously was top of the agenda that morning, and

19 we obviously talked about the case, the issue of -- the

20 issue of racist motivation was talked about, the

21 chief -- there was a chief officer who was overseeing

22 the Inquiry who had been to visit the team, who was

23 going back to visit the team later on that day. And he

24 talked about how the team had -- the team had already

25 been considering whether there was evidence of racist

26 motivation. So my reflection -- and that was it, that

1 was the kind of meeting and he would update when he had
2 been out later that day.
3 I say rights from the outset, I got that wrong. I
4 looked back on that and it would be a couple of reasons,
5 neither of which are very compelling, about why, but
6 what I should have done, and I wrote in my statement to
7 the subsequent inquiry which I started, that what I
8 should have done is I should have said to the team,
9 well, do you know what, I perceive this to be a racist
10 incident, therefore it is, so get on and record it and
11 get on and deal with it as such. I didn't, to my
12 regret.
13 Then the next role I had in relation to it was when
14 I became aware that family were dissatisfied with the
15 response they had had from us. A superintendent went
16 out to visit them, and either took a statement or took a
17 comprehensive note of their complaints. And he was an
18 officer who had worked tangentally with me in the Met --
19 had nothing to do with why he went to see the family --
20 but he came back and he recognised that what was
21 unfolding was a critical incident, because kind of
22 having spent time in the Met he was familiar with that
23 language and what that meant so he -- eventually, he
24 came to talk to me about those -- about the complaints
25 and the dissatisfaction of the family and I don't know.
26 I decided, I thought it through at some considerable

1 length, and decided that what I didn't want to do was
2 simply instigate a -- I'll call it a normal complaints
3 and discipline inquiry into the family's complaints, but
4 that this was a more seminal moment for the organisation
5 and we needed (a) to make sure absolutely first and
6 foremost that we put right the wrongs in terms of our
7 response to the family and the investigation and,
8 secondly, I was determined that we should -- we should
9 deal with these issues in a way that exposed and
10 maximised the learning and the potential for development
11 in the organisation. So I appointed -- I appointed a
12 superintendent, I think she was the superintendent,
13 might have been a chief inspector. But anyway I
14 appointed a superintendent to put together a team and
15 left it to her how she wanted to structure that team,
16 but to conduct under kind of my authority as
17 wide-ranging an inquiry into what had happened as it was
18 possible to do.
19 I wanted -- because I was already aware -- I was
20 already aware that I had a personal -- I had some
21 personal learning to take out of what had happened, so
22 it was important to me that that team treated me in the
23 same way they treated all the other officers and at
24 least I had some sort of kind of independent route for
25 them.
26 So we bought in a man called Bill Griffiths who had

1 been, because I think he had retired by then, who had
2 been the Deputy Assistant Commissioner who had run the
3 Met's homicide command, had been the gold commander,
4 I think, for Damilola Taylor, massively experienced man,
5 who had alongside John Grieve and other significant
6 people -- had developed the Met's response to critical
7 incident management, had trained, was head of the
8 hostage negotiators for the Met, hugely kind of wise and
9 experienced man. So we engaged him to work with that
10 inquiry team as a sounding board as an independent
11 advisor, so that they didn't feel they had to come to me
12 to kind of take their guidance on where they should go.
13 I wanted them to have the confidence that -- and they
14 knew because it was Bill, they knew that he had my
15 confidence to take that team where they needed to go in
16 terms of uncovering the truth of the Inquiry.
17 So I established the Inquiry under those sort of
18 terms. I chaired -- I chaired the gold group, the kind
19 of just kept -- kept an overall eye on the sort of
20 strategic direction, and then when the report was
21 completed, it was kind of formally submitted to me, I
22 met with the family, and we discussed all the
23 conclusions of the report, we discussed my options going
24 forward in terms of what we did with it, and then I met
25 with every single officer who had been touched by the
26 report, met with them all individually and went through

1 the report with them and tried to kind of establish the
2 learning for us all.
3 And then once I had done that, the famous bit is I
4 then apologised to the family publicly in a press
5 conference so that was -- and then subsequently lots of
6 things happened as a consequence of that, so that was my
7 involvement.
8 Q. We have had heard some evidence about Operation Waymark?
9 A. Yes.
10 Q. And that was, as I understand it, the name of the
11 Inquiry into the complaints raised by the San Family?
12 A. Yes.
13 Q. And there was a recognition after that inquiry that
14 there had been a failure to identify the possibility of
15 a racist motive?
16 A. Yes, yes, I mean, yes. I mean there are -- there are a
17 number of failures, the failure -- so the failure was to
18 listen to the family, hear them tell us that it was a
19 racist incident, and then conduct the inquiry in a way
20 that was commensurate with finding the best possible
21 evidence that related to racist motivation. So -- so
22 the -- and I mentioned it earlier, the failure to
23 record -- there's a kind of gap I think in terms of --
24 and a palpable unwillingness I think in policing in
25 Scotland in the time we're talking about to just get on
26 and record it.

1 And I thought a lot about this and it becomes --
2 there's something of a gap so the Crown Office and I'm
3 not going to relitigate the case or make any comment
4 about the Crown Office other than that we get ourselves
5 into a position where we kind of in a default way regard
6 the Crown Office as the arbiters of whether something
7 has happened or not. So whereas in fact they're simply
8 the arbiters of whether there's sufficient evidence at
9 the right level to prove an allegation and those two
10 things are fundamentally different. So we got ourselves
11 into this kind of situation over Simon San, which I
12 think just illustrates the point I'm trying to make
13 so --
14 And I went on BBC2 on Newsnight and had like a
15 terrible time, because trying to get me to explain how
16 the police could say this is a racist incident and the
17 Crown Office are saying it's in hospital a racist
18 incident. And actually, we're talking a different
19 language. So the police are saying the family believe
20 it to be a racist incident so Macpherson says it's a
21 racist incident and therefore, as a consequence, we
22 pursue these lines of inquiry with vigour and energy and
23 we apply our resources to that, because we need to know
24 and we need to understand whatever and evidence is
25 available. So we're saying it's a racist incident, but
26 then the crown are saying there isn't any evidence it's

1 a racist incident and it was Gordon Brewer kept asking
2 me, what are you apologising for? Because we didn't
3 listen to the family, we didn't record it. You won't
4 find the evidence if you don't go and look for it. And
5 the recording it as a racist incident in my mind is the
6 absolute trigger that says now you go and look for that
7 evidence. So if you don't record it, then we're back to
8 pre Macpherson.
9 And the point of the definition in my understanding
10 was to get away from the position where the senior
11 investigating officer said, I've had a look, there's no
12 evidence, it's not a racist incident. So the SIO, the
13 organisation decided whether it was a racist incident or
14 not. And the purpose of Macpherson was saying, hang on
15 a minute, it's not down to you, it's down to the victim,
16 the family, any other person, listen, hear what you're
17 being told and once you're told that by a family, then
18 record it and do your duty as a consequence of recording
19 it and there was a terrible muddle.
20 So again, based on my failure to do what I should
21 have done in that initial meeting, in 2011, I think it
22 was, Stewart -- forgive me -- the lad was killed at --
23 Stuart Walker, he was killed at Cumnock and while the
24 investigation have still ongoing and they hadn't
25 detained anyone, and Stuart was gay and was well-known
26 in the community, and I read about it in the papers and

1 thought, well, that's got to be a homophobic incident
2 and because I hadn't done it for Simon San, I rang
3 Strathclyde Police and said, look, I am any other person
4 and I believe it to be a homophobic incident, so please
5 you have to record it and their --
6 This is not a story against anyone. I'm just trying
7 to illustrate the reluctance. Their response
8 eventually -- they obviously talked about it a lot --
9 their response when they came back to me was, we
10 recorded it as a homophobic incident, but we're not
11 going to tell anyone. And it just sort of captured --
12 like they knew they had to, but there's this thing that
13 once you do, then is it the media, is it -- what is it
14 that we're afraid of that we are then because we have
15 stated definitively. So I think police officers are --
16 have found it difficult in the past to explain why you
17 would record something as a racist incident and they've
18 lacked the confidence to be able to say it can be a
19 racist incident, because the family say so and it
20 doesn't get prosecuted as one because the evidence
21 required to that standard simply isn't there.
22 But this is what I mean by -- so the Crown Office
23 aren't the arbiters of what happened, because that
24 doesn't mean it didn't happen. Because otherwise you
25 would -- if you think about it in the context of rape
26 and the conviction rate for rape across the

1 United Kingdom, if it were true that the prosecuting
2 authorities were the arbiters of what had happened, we
3 would have to be saying that 80, 85 per cent of those
4 rapes simply didn't happen and no one is ever saying
5 that. What we're saying is we can't -- because of the
6 issues of consent and all the rest, we can't get across
7 that evidential line and it's why I always talk about
8 the racist murder of Simon San, because I believe that
9 it was. The Crown Office don't agree, but that's on a
10 different basis.
11 And I think, if I may finish on, you know, that was
12 ten years ago, ten, 12 years ago, and forgive me, I
13 haven't listened to all the evidence, but I imagine you
14 will have heard evidence by now about the recording of
15 the death of Mr Bayoh as a racist incident, who did it,
16 what they did it and what flowed from it being recorded
17 as a racist incident, because clearly it is, otherwise
18 we wouldn't be here. But hopefully that gives us a
19 comparator that says, well, we've learned in the last
20 decade because we have done it better this time.
21 Q. So to sum up, if I may --
22 A. Sorry, yes.
23 Q. -- the role of the police is different and distinct from
24 the role of the Crown Office. And insofar as there is a
25 difference between the ultimate outcome, that is because
26 you're looking at separate things?

1 A. Yes.
2 Q. The crown are looking at whether there's sufficient
3 admissible evidence to prosecute?
4 A. Yes, exactly.
5 Q. Whether there are reasonable prospects of securing a
6 conviction, whether it's in the public interest?
7 A. Yes, exactly.
8 Q. Those are separate issues from the police saying where
9 is the evidence here about this incident, this death,
10 and we should gather in all the evidence that we can,
11 particularly in relation to evidence about racial
12 motivation, but that's not assessing whether it's
13 sufficient --
14 A. No.
15 Q. -- or admissible or --
16 A. And forgive me, but may be one thing that the Inquiry
17 could do in the end is assist the agencies involved with
18 some kind of clarity about -- even if it's clarity about
19 at the language that we use around it so that -- so that
20 we as professionals can talk about it in a way that
21 makes sense to the public. Because as I say in the case
22 of Simon San, I couldn't -- because I hadn't thought it
23 through to that degree and I think it's a key factor in
24 putting professional police officers off recording
25 things as they should be recorded, because of the
26 tension it sets up in your kind of conscious mind about,

1 well, if I say it's that, how can they say it isn't?

2 Q. Thank you. So insofar as we have evidence available to

3 the Inquiry from the former Lord Advocate at the time

4 that on the evidence it was not racially aggravated,

5 that is a separate issue for the crown, and this is

6 within their remit, that doesn't impact on the officers?

7 A. No, it doesn't, no. The issue for the officers is did

8 they look in all the right places.

9 Q. Thank you. Can I ask you to look at paragraph 126,

10 please. And this mentions San but you follow on with

11 another point I would like to discuss with you, 126,

12 here we are:

13 "One of the issues arising out of the

14 Simon San report was about people not being trained for

15 the roles they were asked to undertake. My impression

16 was that training was given a lower priority generally

17 than it was in England, and that persisted into the

18 early days of Police Scotland. I fully accept the

19 context of reform and the pressures that put on the

20 system. In particular, I think there was a lack of

21 leadership training and the associated discussion of

22 culture and diversity that is an integral part of

23 leadership training."

24 Can I ask you first of all about this comment,

25 "people were not being trained for the roles they were

26 asked to undertake", can you explain the difficulty that

1 arose in relation to that?
2 A. Yes, I mean very simply and I know that the
3 Waymark Report is available to the Inquiry, I think --
4 I'm pretty sure it was the senior investigating officer
5 appointed to investigate Simon's murder hadn't attended
6 the courses that he was required to attend and so he
7 was -- I mean that was an organisational failure, not
8 his, putting him in that position.
9 So then some of the things that flowed from him
10 trying to do the very best job he could probably would
11 not have happened. I'm thinking about things that were
12 said to the media. I'm thinking about the recording of
13 decisions and things. Had he been procedural trained, I
14 hope, and I would be reasonably confident that those
15 things would have been done differently.
16 I'm also thinking, say more widely than just
17 Simon San, I'm thinking of a particular -- make it a
18 more general comment. There were occasions when I felt
19 that senior officers were put in command roles in
20 relation to, for example, firearms incidents, when they
21 had been trained very specifically in terms of
22 commanding a firearms incident, but not in some of the
23 ancillary skills and professional knowledge that you
24 might need and you might encounter as part of a firearms
25 operation. So for example, there was a specific course
26 on -- down in England and Wales on siege management, so

1 managing where you've got a hostage situation or someone
2 taken -- someone barricaded themselves in premises. And
3 I can recall at least one incident where trained
4 firearms commanders, because we deployed firearms
5 officers to it, didn't appear to have the awareness that
6 I would have expected about the range of options you
7 would be thinking about the contingencies you would put
8 in place for managing a siege.
9 And I just don't think there was -- during that
10 period, I just wasn't conscious of officers saying,
11 well, I have now got to do that next module of my
12 training, particularly senior officers. I think there
13 was a sense I had that senior officers were expected by
14 virtue of their seniority to understand how to do
15 things, which perhaps hadn't existed quite the same in
16 England.
17 Q. We've heard evidence in this Inquiry that certain
18 officers who were in the role of, say, sergeant and
19 inspector that day were acting sergeant or temporary
20 roles; is that the type of scenario you're talking about
21 where --
22 A. Sorry. On which day?
23 Q. On 3 May 2015 when Mr Bayoh died.
24 A. Yes.
25 Q. But officers on the ground that day were in acting roles
26 or temporary roles and perhaps had not received all of

1 the training courses that would normally go with someone
2 who was formally promoted into that role; is that the
3 type of situation that you're expressing?
4 A. Yes, that would certainly be a strong possibility,
5 I would think, and, inevitably, if you're in an acting
6 role, you don't have the breadth of experience or the
7 depth of experience that the substantive rank would have
8 so, yes.
9 Q. And that was the situation of the officer in charge of
10 the Simon San investigation you said, he hadn't
11 completed all the necessary courses?
12 A. No, he hadn't done the course. He was at the right
13 rank, he was a Detective Chief Inspector, so it wasn't a
14 question of rank, it was about had he done the
15 qualifications.
16 And just going back to your last question about
17 acting and temporary ranks, that sounded a bit -- my
18 answer was overgeneralised, because there are people who
19 will perform at acting and temporary ranks who have done
20 the training, have got the breadth of experience and,
21 you know, sometimes you find they're more cable than the
22 people in substantive rank. So it's not a general
23 comment that if you're acting, you're not trained. It's
24 more probable that you won't have received the same
25 amount of training, more probable that you won't have
26 the depth of experience. I wouldn't put it more

1 strongly than that.

2 Q. It would depend on the individual?

3 A. Yes, exactly.

4 Q. If you could give me a moment, please. I'm conscious

5 it's now nearly half past 11.

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

7 (11.29 am)

8 (A short break)

9 (11.53 am)

10 LORD BRACADALE: Ms Grahame.

11 MS GRAHAME: Thank you. You've talked before the break about

12 learning

13 opportunities that arose as a result of the Simon San

14 investigation. And I

15 wondered if there were any disciplinary or misconduct proceedings

16 that arose

17 out of the failures in the investigation?

18 A. No, there weren't, no. I mean, put very briefly, we

19 discussed with the family and their view -- given the

20 nature of the misconduct offences was in the grand

21 scheme of things relatively minor, given that the

22 failings were in part organisational, it was felt that

23 the most productive way to use the findings of that

24 inquiry were to do all the things around training that

25 we developed in the other policy issues, but that

26 actually, and it was important to me, that the big

1 message to the organisation was, we must do better, but
2 we'll do better if we learn, if we're humble about this
3 and we learn from the things that we've got wrong.
4 It felt to me at that point in the organisation that
5 taking that approach was more likely to change people's
6 thinking and behaviour than setting up an adversarial
7 kind of discipline process where people would argue
8 against their culpability in what was actually quite a
9 complex and in places ambiguous situation so, no, there
10 were none.
11 Q. So where there have been failings and they were
12 recognised and there may have been individual failings,
13 was it the case and generally from your own experience
14 is the case that the views of the family about whether
15 there should be disciplinary or conduct proceedings
16 outweighed the desire of Police Scotland or the Lothian
17 and Borders Police, as it was then, to deal with those
18 issues in terms of the Regulations?
19 A. It's always a balance. In the particular case of
20 Simon San, my position from the beginning of it was that
21 I did not think, and this suggests that I presupposed
22 what the outcome would be, but from what I knew at a
23 point, I did not think the most valuable outcome in
24 terms of learning development, operational competence,
25 in terms of the family wanting something positive -- use
26 that word advisedly -- but something "positive" to come

1 from the Inquiry, it was never my view from the
2 beginning that the right answer was going to be
3 misconduct proceedings.
4 Q. And why was it your view from the outset that the answer
5 would never be misconduct proceedings?
6 A. Because my -- sounds ever so pompous, I don't mean it to
7 sound that way -- my judgment of where the organisation
8 was at the time in relation to these specific issues was
9 that there was a lack of awareness, a lack of -- a lack
10 of these issues being front and centre in people's minds
11 during the response to operational incidents, that just
12 that -- just that setting up -- as I say, setting up an
13 adversarial process, where some people were blamed for
14 getting it wrong, others wouldn't have been and it just
15 seemed to me that that was going to mire the
16 organisation in a whole load of bad feeling.
17 And because of the nature of what would have been
18 the misconduct offences, no one was going to get sacked,
19 the misconduct outcomes would have been, you know, at
20 the level of advice and it just seemed -- it just seemed
21 not to be in the best interests of anyone to head down
22 that past, because everyone got advice anyway from me,
23 and it generated a whole load of discussion in the
24 organisation about the issues and about why I had taken
25 the particular path I had taken and why we had
26 investigated it any away way we had. Whereas I think we

1 would have just got mired and we know from the history
2 of some of these things the organisation would have got
3 bogged down in it for a long, long time and been
4 focusing on the wrong things.
5 Q. Did it make a difference in you view that in the case of
6 Simon San there had been a conviction, there had been
7 pleas, there had been a conviction?
8 A. Yes, yes. I mean I think and I'll refresh my
9 recollection of the report a couple of weeks ago and
10 it's interesting it's a thing of its time in some way,
11 but there is a whole paragraph in there about what a
12 good investigation it was. And you know, it was, it was
13 a good investigation in many ways, but it missed this
14 vital element out.
15 I think if -- if there had not been a conviction or
16 if there had not been a -- if there had not been
17 charges, then that would have raised obviously more
18 significant questions about the quality of the
19 investigation, so it's a bit of a kind of if, if, if,
20 but, yes, it made a difference in the sense that that
21 wasn't an issue for us. We had kind of got the right
22 people and the right people were going through the
23 process.
24 Q. Right. Can I go back briefly to paragraph 12. You'll
25 remember that I mentioned earlier paragraph 12 of your
26 Inquiry statement, that I was going to come back to a

1 part of that.
2 A. Yes.
3 Q. And you'll see at the end of paragraph 12 it mentioned
4 that in relation to Simon San:
5 "As a direct consequence of this work I commissioned
6 a project to develop a critical incident training
7 programme for police across Scotland."
8 A. Yes.
9 Q. "The work continued through to the formation of
10 Police Scotland."
11 So it continued right up until April 2013
12 effectively when Police Scotland was created and formed?
13 A. Yes, until the end of 2015 in terms of delivering the
14 training and thinking about the next stage, yes.
15 Q. Right. Can you help the Chair understand what this
16 programme was designed to do?
17 A. Okay. So again, without going through the history back
18 to Stephen Lawrence, some of the failures in the cases
19 around Michael Menson, Roger Sylvester, Ricky Reel and
20 others and then into Soham, and I'm pretty sure others
21 will help, but in the Metropolitan Police part of the
22 response which set up is the Racial and Violent Crime
23 Task Force defined what has become known as critical
24 incident and definitions in there. But very simply,
25 it's any incident where the effectiveness of the police
26 response is likely to have a significant impact on the

1 confidence of the victim, the family or the community.
2 And from -- based on the work of Racial and Violent
3 Crime Task Force, what it tried to do was capture some
4 principles about dealing with incidents where police
5 effectiveness is likely to have that significant impact.
6 So the principles that sit under it and probably the
7 first thing to say is this is different to a major
8 incident, and still you see them used interchangeably
9 sometimes by the police. So a major incident defined in
10 legislation is about scale, about the different
11 emergency services having to work together, about mass
12 casualties, about having to integrate command
13 structures. So those are the kind of things, so a huge
14 crash on the motorway would be a major incident. It
15 could be a critical incident. In my statement I
16 describe racist abuse in a school playground will never
17 be a major incident, but it could be a critical
18 incident, because the effectiveness of the police
19 respondent to that is likely to have a significant
20 impact on victim, family, community. So the two things
21 are different. The London bombings were a critical
22 incident, they were also a major incident. The abuse in
23 fact playground is also a critical incident, but never a
24 major incident.
25 So the principles basically that sit behind critical
26 incident management are firstly described as the "golden

1 hour", so the absolute centrality of your initial
2 response capturing evidence, taking the opportunities
3 which will disappear if you don't get them from the
4 outset. Second principle sits around command structures
5 and identifies the gold, silver, bronze model and the
6 principle is basically who's in charge of doing what:
7 make sure there's absolute clarity about command.
8 Allied to that is a principle about recording decisions.
9 So -- so what this introduced was the notion of decision
10 logs. So previously you would have -- again,
11 oversimplifying -- but you would have had a policy log
12 where a senior investigating officer or a senior officer
13 would record decisions they had made about a policy at
14 this point of the Inquiry. A decision log takes that
15 further and the idea is to document the senior officer's
16 thinking through the process. So you would expect to
17 see in a decision log, I took this decision to do this
18 and you would expect to see the rationale for that
19 decision written down next to it. You would expect to
20 see in there, at this point I could have taken this
21 decision, but I decided not to and the reasons why
22 decided not to take that decision. You would expect to
23 see in there every now and then a statement of what I
24 know now. So at this point, this is what I can see,
25 this is what I know, so that you -- so in terms of
26 someone going back to revisit the process you have

1 got -- in your decision log you've got a kind of
2 waypoint where you say, well, at that point I knew that.
3 It turns out subsequently that you were wrong, but
4 that's what I knew, that's what I was basing my decision
5 on. So a much more comprehensive recording of thought
6 process. Some people recording them, "at this point
7 when this happened, I felt like this", so that you
8 introduce the idea of your emotional response and how
9 that impacts on your decision-making, but the idea is it
10 is a much more comprehensive kind of record of your
11 thinking.
12 So decision logs, independent advice and, again, the
13 kind of basic principle here is that -- so still again
14 we hear talk about and use of independent advisors as if
15 their principal role is to represent the community from
16 which they come and to be a conduit back and to come to
17 the police and tell them about their community. That's
18 one -- that's one element that you could use an
19 independent advisor for, but in my view the more
20 appropriate use of them is not as community
21 representatives, but as people who come in who do not
22 have your mindset as a police officer and challenge your
23 thinking. So it doesn't have to be that if you're
24 dealing with the death of a black man, it doesn't mean
25 that you have to have a black man as your independent
26 advisor. Obviously, you don't have to have one

1 independent advisor, but some of the best independent
2 advisors I've come across are nothing to do with the
3 community in which we're operating, but understand how
4 to challenge our decision-making, they have an
5 understanding of what being in the police for 25 years
6 does to your way of think and way of operating and
7 they're brought in and they challenge that.
8 The principles in critical incident management are
9 that you bring them in as early as you possibly can and
10 quite often what you find still, I'm talking 2015, is
11 that the police would want to get the thing sort of
12 sorted out a bit and get some boundaries around it
13 before they invited an independent advisor in to have a
14 look. Anyway, we could go back to that if you're
15 interested.
16 So the principle of independent advice, the
17 principle of using the resources within your
18 organisation, we talked about cultural -- Community and
19 Cultural Resources Unit, the staff support associations.
20 I'm going to miss one but -- and the final one I can
21 think of right now --yes, two more, one is importance of
22 learning. So from the outset of the incident you bear
23 in mind the process that you're going to use to extract
24 the learning from it as you go through. And the final
25 one is the importance of understanding these definitions
26 by which I mean racist incident, institutional racism,

1 unconscious bias and the things that may have an impact
2 on your decision-making.
3 So those are the principles that sit behind critical
4 incident management. The single most important thing
5 I would say about it is that it is not a prescription
6 for -- so -- so there's not a standard operating
7 procedure which says, here's a critical incident, if you
8 tick off -- if you go through all these stages, you will
9 have managed it properly. The idea behind it from its
10 inception was that it created a state of mind and a way
11 of thinking for senior officers to deal with complexity
12 and ambiguity. So in your mind as the senior officer,
13 who's in charge, what are the role, and you go, am I
14 recording my decisions appropriately, have I got
15 challenge coming into it. It's just about the
16 principles of good operational management, but because
17 it's the police we have to kind of constrain them in a
18 kind of box that we can teach on a course, but it's
19 really a state of mind.
20 And of course the one I missed, there you go, giving
21 myself away, so the other principle is the centrality of
22 the family.
23 Q. Right.
24 A. And so it's a state of mind that we want to instill in
25 officers all the way through the system. So a gold
26 commander can be a sergeant, it can be a Constable, it

1 can be the chief constable, so the principles stretch
2 themselves right across the organisation.
3 Q. Thank you. You talk about the significance of the
4 Macpherson definition of institutional racism. And I
5 think in paragraph 122, if we can go to that, or perhaps
6 we should look at the previous paragraphs just to give
7 ourselves some context here. Let's look at 120, first
8 of all. That's fine.
9 "Discussion of institutional racism" and this is
10 critical incident management training, is it?
11 A. Yes.
12 Q. "I'm asked what sort of things were being raised during
13 the discussion of institutional racism at the critical
14 incident management training. The training event
15 started with an introduction about organisational
16 cultures, structures and decision-making with a number
17 of different models being presented and then the
18 exercise began."
19 A. Yes.
20 Q. "It's based on a scenario of a young Asian woman going
21 missing. The participants in teams develop their plans
22 and approaches to the information they have got in front
23 of me. They write that information into decision logs
24 along with the rationales for their decisions. We then
25 come back into plenary and all those decisions and
26 decision logs are look at in plenary and discussed."

1 So is it an interactive workshop-type scenario?
2 A. Yes, it runs over two days and there are a number of
3 elements as the two days role through, yes.
4 Q. And 121:
5 "Institutional racism was raised as part of the
6 initial introductory presentation and then in discussion
7 on the second day. There is an actual point in one of
8 the discussions on the second morning where I and the
9 facilitator of the exercise knew that if no one else
10 had, we would raise the issue of institutional racism
11 and the facilitator would ask the question like, 'Does
12 thin think that institutional racism as a concept has
13 any bearing now?'"
14 And you talk about the sort of questions you would
15 ask to promote that discussion?
16 A. Yes.
17 Q. And then if we can look at the next paragraph, 122:
18 "In the introductory presentation to the exercise
19 the definition of institutional racism from
20 Macpherson Report was put on the screen. It was
21 somewhat deconstructed to remind people about it and to
22 put it in their minds as they participated in the
23 exercise. The importance of the word 'unwitting' was
24 highlighted, as was the way people defend themselves by
25 say, 'well, we are unwitting'. You can only be
26 'unwitting' once and once you know, then presumably you

1 are witting and all the responsibilities that flow sit
2 with the leader."
3 Could you expand on that a little?
4 A. Yes, so -- yes, so there has been a tendency in my
5 experience over the years when people talk -- people
6 inside the service talk about institutional racism and I
7 think it's because of the dynamic about everything will
8 think we're labeling them as racists. There has been a
9 tendency to emphasise the bits that say "the collective
10 failure of an organisation" and the word "unwitting" and
11 at times that has sounded to me as if that is a way of
12 saying, so it's not really your problem, because it's
13 our collective failure and anyway it's unwitting.
14 I think, traveling into contentious territory now,
15 but my view is you can't separate individuals out of the
16 definition of institutional racism. Yes, it's got a
17 systemic, a corporate institutional kind of element to
18 it, which is truly significant, but it can only exist if
19 individuals in the organisation -- so if you think the
20 definition can be detected in processes, attitudes,
21 behaviours -- forgive me I'll get it in the wrong
22 order -- based on stereotyping, dada, I'm sure the
23 definition is on there somewhere, but those are things
24 that people do, people behave, people have attitudes,
25 organisations don't. So the whole kind of edifice of
26 institutional racism has somewhere in it individual

1 people and so the point that was being made was that you
2 can't hide behind the word "unwitting", ie, well,
3 I didn't know, I was unwitting. And it was John Grieve
4 who introduced the idea that you can only be unwitting
5 once and then once you know, well, you're outside the
6 scope of that word.
7 I mean I think I'm right in saying that in
8 Macpherson he talks about "unwitting" can be caused
9 by -- how has he describe it -- uncritical
10 self-understanding I think is what he says can be a
11 cause of the unwittingness and so that puts and the
12 definition for me has always put a responsibility on
13 individuals to ensure that they are critically
14 self-understanding and the organisation can play a part
15 any of that, of course it can, and there's -- you know,
16 it is institutional racism, but every individual in the
17 organisation has to challenge themselves about the
18 extent to which their behaviours and their attitudes and
19 most often, most often, particularly in the data
20 environment that, you know, we lived in back then, most
21 often ignorance, you know, you simply -- you simply
22 weren't aware of some of the disproportionate outcomes,
23 you simply weren't aware of the gap, the gap between
24 what police were saying and what communities were
25 saying.
26 Anyway so, yes, so we kind of got into that. And as

1 I say, the main point is that you can't hide behind it's
2 a collective failure of an organisation, because an
3 organisation is made up of people. It has additional
4 dynamics because it's an organisation, but in the end
5 every single one of us has to be -- has to take our
6 responsibility for what part we play in that.
7 Q. I think you mentioned the wording. If we look at
8 paragraph 85 very briefly --
9 A. Yes.
10 Q. -- you do refer to the Macpherson definition and at the
11 end of paragraph 58, there we are, you say:
12 "I would say that the police service collectively
13 has failed to provide appropriate and professional
14 service to people over the years because of their
15 colour, culture or ethnic origin. You see it detected
16 in processes, attitudes and behaviour, which amount to
17 discrimination through unwitting prejudice, ignorance,
18 thoughtlessness and ways of stereotyping."
19 So that was the wordings I think that you've quoted
20 there.
21 A. Yes.
22 Q. And am I right in saying that as part of this course,
23 which you prepared, you prepared PowerPoint
24 presentations for use during the courses?
25 A. Yes.
26 Q. And I think you have provided the Inquiry with those and

1 I don't -- there's a number of slides. I don't wish to
2 go through those today, but perhaps we could refer to
3 one of them, WIT 00111, and this is slide 30 out of 37,
4 and it's simplexity(?), critical incident management and
5 this slide is just an example of the sort of slides used
6 to share information with participants?
7 A. Yes.
8 Q. And tell us what we see on this slide?
9 A. This deals with the "treat everyone the same approach".
10 So you know, treating everyone the same doesn't lead to
11 fair equitable outcomes and I think probably says this
12 better than I will do it in the next ten minutes.
13 Q. So treating everyone the same, of which we have heard a
14 number of witnesses speak, is to give everyone the same
15 box?
16 A. That's it.
17 Q. But only two out of the three can actually see the game?
18 A. That's it.
19 Q. If you treat everyone fairly, you give the smallest
20 person two boxes, the middle-sized person one box, and
21 the tallest person no boxes and they can all see the
22 game?
23 A. Yes.
24 Q. And that's how to --
25 A. Exactly so.
26 Q. -- understand the difference?

1 A. Yes.
2 Q. Thank you. And with the other PowerPoints, there are a
3 number of images that share other aspects of information
4 and educational you wish to share with the
5 participants --
6 A. That's right.
7 Q. Along these lines? Thank you.
8 A. Yes.
9 Q. Can we look at paragraph 55 now, please, of your Inquiry
10 statement. Can we go to the top of it, please. Thank
11 you:
12 "One of my observations about policing in Scotland
13 after my first year or two in Lothian and Borders Police
14 was that it had a strong sense of its own competence.
15 In some ways that's real positive. The downside of that
16 was I think less of a sense of the need to engage with
17 and listen to what minority communities were telling you
18 about what kind of policing they wanted. This is why we
19 want officers from every community in the police. It's
20 because when you understand the community you are
21 policing you don't have to engage in conflictual
22 conversations all the time. So in places like Dumfries
23 and Galloway, Northern was another example, people from
24 the communities police the communities. That's the
25 model that I think works best. It worked really well in
26 those places, but they were fairly non-diverse. So I

1 think the border between England and Scotland is not
2 necessarily the dividing line. I think it's the
3 difference between the type of communities that you
4 actually police."
5 I'm interested here in what you said about less
6 engaging with minority communities and the best model is
7 for people from the community to police the community.
8 Can you explain just a little bit more about what you
9 meant there?
10 A. Yes, I think it goes all the way back to the definition
11 of a constable, which is a constable is a citizen
12 locally appointed having authority under the crown. So
13 right from the beginning -- right from the beginnings of
14 policing, and I won't dwell on it, but right from the
15 beginnings of policing it was, you know, the shire
16 reeve, it was the constable served in that role for a
17 year in his or her own community and then it was someone
18 else's turn.
19 So the idea of the community policing itself seems
20 to me to be in an environment where we're low on numbers
21 so, you know, there aren't enough police officers to
22 control society and so we look to communities to
23 regulate themselves. I think if the officers working in
24 those communities and, again, I have made this sound
25 less nuanced than it is. But the basic principle is
26 that if you come from a particular community, you

1 understand the dynamics of that community. You're --
2 say if you go to somewhere like Dumfries and Galway,
3 people are cheek by jowl. One minute they're taking a
4 statement from them or recording a crime and 20 minutes
5 later they have taken their uniforms off and they're
6 neighbors and they're in the school playground. So I
7 think it makes people more invested in the communities
8 that they work in, I think they are more recognisable
9 and, I don't know, just some sense of a -- some sense of
10 a closer relationship with the communities.
11 And I say it's more nuanced than that, because
12 obviously, you know, it's not as simple as someone who's
13 never livid in Dumfries and Galloway can't go and police
14 Dumfries and Galloway, of course, they can, but I think
15 it's trying to recognise that connection between where
16 you live and where you work. And it probably speaks a
17 bit to some of my early experiences of lots of white
18 police officers policing black communities and I think
19 that clearly didn't work particularly well in my
20 experience and it would have worked much better had we
21 had behind many more officers from within those
22 communities.
23 Q. Right. Can we look at paragraph 135, and here you talk
24 about working with black and other minority ethnic
25 officers:
26 "I'm asked if I have an awareness of what proportion

1 of Police Scotland officers were from minority ethnic
2 backgrounds when I was working in Police Scotland. My
3 recollection was it was around 1 per cent across the
4 force. It was disproportionately small compared to the
5 proportion in wider society. I also recall that it went
6 down to something like 0.3 per cent of sergeants. When
7 looking at ranks above sergeant, the numbers got
8 vanishingly small."
9 And you're obviously talking about limited numbers
10 of officers from black or ethnic minority communities
11 within the police, but I'm interested in this comment
12 about the senior ranks. Can you explain a little more
13 about what your experience was in that regard?
14 A. Sorry. So ranks above sergeant?
15 Q. Yes.
16 A. Well, there were just very few of them. I mean I'm
17 trying to think in Scotland if I can think of four or
18 five at superintendent level maybe. It's of that order,
19 vanishingly small numbers. And of course, if you don't
20 mind me saying, one of the impacts of that is it puts a
21 massive pressure on those individuals, particularly at
22 senior rank. So when you talk about things --
23 organisations like SEMPER, you know, if you're a black
24 superintendent in Police Scotland then officers --
25 officers across the organisation are going to look to
26 you as a role model, they're going to look to you as an

1 exemplar, as a mentor and they're going to look to you
2 to kind of carry a burden at senior levels on their
3 behalf.
4 Now, you might want to do that, you might be
5 prepared to do that, but you might just want to be a
6 really good superintendent and get qualified to be a
7 chief superintendent and get on with your career. And I
8 think the smallness of the numbers means that I
9 suspect -- again, it's not my personal experience, but
10 just what I watched and what people relayed to me is
11 that it puts increasing amount of kind of moral pressure
12 on such officers to also be representatives of their
13 entire community in a way that obviously doesn't happen
14 for white officers. And I would say, again, because of
15 the size of the Met, I think it was 55 thousands people,
16 because of the size of the Met it was much more common
17 to have black inspectors and black chief inspectors and
18 Asian officers at those kind of ranks and so it was more
19 the case, I think, that those who -- that they were in a
20 position to opt in to taking those kind of
21 responsibilities on behalf of others, rather than, well,
22 you're there, you need to do it for us.
23 Q. Right. Can I move on now, please, to the experience of
24 the transition to Police Scotland in April 2013. Can we
25 go back to paragraph 16, please, of your Inquiry
26 statement. Here we are:

1 "In my view, the process that managed the transition
2 into Police Scotland (2012/2013) was suboptimal in a
3 number of ways:
4 "The process was insufficiently strategic or
5 inclusive;
6 "The prioritisation of basic operational competence
7 during transition to the exclusion of issues of culture,
8 equality and diversity;
9 "Selection of key staff for the project team(s)
10 lacked fairness and transparency.
11 There was a real sense of either being 'in the gang'
12 or not."
13 I'm interested in these specific bulletpoints that
14 you've mentioned. Obviously, we're interested in race
15 and equality, diversity, inclusion. You have mentioned
16 those specifically here. Can you explain some of the
17 issues carry where this transition into Police Scotland
18 was suboptimal and the impact that had on operational
19 duties?
20 A. Yes.
21 Q. Sorry that's a big question.
22 A. It's a very big question and I take a long time
23 answering your short ones.
24 So the transition to Police Scotland was a
25 generational opportunity. It was a massive -- a massive
26 opportunity for the country, for its police officers to

1 rethink the way that policing was delivered in Scotland.
2 This is my view.
3 The context in 2012, I think there were two things
4 that I would point to. One is -- so we were heading
5 towards the announcement of the Independence Referendum
6 and Scottish Government were working up what they called
7 the Scottish approach to government and, very simply,
8 Scottish approach to government talked about a
9 flourishing Scotland would occur when we had increasing
10 equality, increasing participation and increasing
11 economic wealth. And that the way that we would design
12 our public services would be based on approaches which
13 were assets based, collaborative and relied on
14 coproduction. So the whole narrative starting to
15 develop in government was about this is service users
16 designing services with service providers in kind of
17 equal partnership, but equality and participation were
18 fundamental to a flourishing Scotland. So that was one
19 part of the context.
20 The second part of the context I saw was the
21 opportunity presented by the new legislation which
22 defined the purpose of policing as to -- forgive me if
23 the words are slightly wrong -- improve the safety and
24 wellbeing of people, locales and communities across
25 Scotland. And that seemed to me to offer us an
26 opportunity, because clearly government didn't think

1 wellbeing and safety were the same thing, otherwise they
2 wouldn't have used two words, and it gave us, the
3 police, the opportunity to think about what contribution
4 could policing make to the wellbeing of communities.
5 And that has all sorts of complications in terms of how
6 we prioritise our resources, how we engage with
7 communities, what we think wellbeing means. It has
8 massive implications for what you set up as your
9 performance regime. And once you have decided that,
10 then it has massive implications, because you then have
11 to build the workforce with the culture to deliver those
12 things.
13 So I, and I obviously wasn't alone, but I saw
14 massive opportunities for the police to step back and to
15 engage broadly with communities and organisations across
16 the country and have those discussions and set a vision
17 for a police service that was -- that could be different
18 and could leave behind some of the less good
19 characteristics of its past. So my hope was that the
20 service would embark on that path and my -- kind of
21 sounds a bit glib -- but I think what we did was we set
22 our minds and our energies to police reorganisation and
23 not police reform. So I think -- so I think when I say
24 insufficiently strategic or inclusive, that's what I
25 mean. I think there were some massive opportunities to
26 think again about what policing could look like, about

1 what police leadership needed to look like.
2 So policing is massively complex and it's about
3 nuance and it's about discretion and it's about coping
4 with complexity. And traditionally, what the police
5 service has done to manage that is to write lots of
6 standard operating procedures and try and cram it all
7 into a kind of box where if you just do A, B and C, you
8 have kind of met the need. If you start to think about
9 wellbeing and participation -- if you start to think in
10 the way that I have suggested, then you start to think,
11 well, do we need a different profile to our leadership?
12 Do we need to be identifying and finding leaders who
13 excel at coping with complexity and ambiguity, rather
14 than leaders that are fantastic at getting people to
15 comply with standing orders. And if that's the case,
16 then that is a different skill set and it creates a
17 different organisation and, potentially, we had the
18 opportunity to do that thinking and to set off in that
19 direction. And in my view, we sort of did the opposite.
20 We kind of reverted to one particular model that already
21 existed and we said, well, that model is going to apply
22 all over Scotland and --
23 Yes, so in terms of the next point then about
24 culture quality, equality and diversity is if you start
25 to think -- and all the points are linked obviously. So
26 if you're starting to think about a different -- if

1 you're trying to think in a different way about what
2 policing could be in Scotland, then you have to think
3 about what I kind of workforce delivers it, what kind of
4 leaders deliver it, what kind of engagement and
5 relationship with our communities need to deliver it and
6 that will set you on a course of action where you cannot
7 help but, I would suggest, be really thoughtful about
8 the culture of the organisation, about what does quality
9 policing mean in terms of the outcomes you deliver, and
10 you have to -- you can't avoid issues of equality and
11 diversity, you can't avoid your analysis of the
12 organisation in 2012 saying we have got issues with the
13 way that our staff are treated, we have got issues with
14 our service, we are institutionally racist,
15 institutionally discriminatory. You can't avoid that
16 conclusion and, therefore, at that point, designing a
17 new organisation you say, well, as I say, it's a
18 generational chance to say, well, actually how do we do
19 this differently, how do we move forward, and we missed
20 that opportunity. The issue of staff I'm sure you're --
21 yes, it's to do with the second one as well, the
22 prioritisation of basic operational competence.
23 So it was quite a tight -- others will disagree with
24 me on this, it was quite a tight team and it set off
25 with a sense, probably rightly, but a sense of urgency
26 and complexity about the task that it had been given and

1 the approach was to keep it a very controlled process
2 and that led, I think -- so the process I saw was that
3 people were selected to go on the team on the basis of
4 perceived operational competence, on the basis of
5 relationships they had, on the basis of his chief says
6 he's available so he can go. And we at one point
7 I remember writing a letter which went from my chief in
8 Lothian and Borders to the team -- to the reform team
9 saying, look, kind of we want to be a values-based
10 organisation and here we're behaving even at the
11 beginning in a way where we're not being consistent with
12 some of those values. Again, it sounds pompous when you
13 tell it backwards, but we're not being consistent with
14 those values.
15 So we could and at the time, because at the time
16 I was head of equality and diversity for the Chief
17 Police Officers' Association in Scotland, so I had a
18 kind of locus in it, suggested that we could run in
19 probably over two weeks a more transparent equitable
20 process that could fill the gaps on the team and that
21 met with a pretty negative response and I think -- I
22 just think in all of these respects we didn't start off
23 in the right direction and I think, and this -- I will
24 break my own rule and speak for all off 2015 -- but
25 I think Police Scotland has carried the burden of that,
26 perhaps unnecessarily, ever since.

1 Q. I think if we can turn to paragraph 66 and 67 of your
2 statement, again, here you're talking about your
3 experience of the transition to Police Scotland:
4 "I am asked if I notice any particular similarities
5 or differences in relation to race and the attitudes
6 towards race in Scotland compared to England. Yes.
7 I was surprised as how it virtually wasn't a
8 consideration in the whole lead-in to the transition
9 process."
10 And then at 67 you say:
11 "When the transition to Police Scotland started they
12 appointed a DCC to lead the process. Quite early on
13 there was a meeting and part of the approach was to
14 assign to the chief officers around Scotland a piece of
15 the transition work. For example, I was given traffic
16 and operations. Around that table it was all middle
17 aged white men. There weren't many options at that
18 point in Scotland to choose someone who wasn't a white
19 middle aged man, but there was a woman assistant chief
20 constable, at least one, and she wasn't in the room. I
21 offered to not take forward traffic and operations and
22 suggested that it should be taken forward by our female
23 colleague. That was accepted and that would leave me
24 with capacity. I suggested that I would take forward a
25 bit of work on culture and diversity and equality
26 implications of the whole process. I was surprised that

1 those issues hadn't been identified as pertinent to the
2 process at that point."
3 Is this really examples of what you have just been
4 saying, that there weren't any women in the room, race
5 wasn't a factor in the room, and you were surprised that
6 issues of culture, diversity and equality were not
7 identified or hadn't been identified as pertinent?
8 A. Yes, I mean what I can't answer for is why there were,
9 to my recollection, no women in the room. May have been
10 perfectly good reasons why that was the case. We were
11 all busy operational senior staff, so I wouldn't claim
12 that in any way to be a kind of cultural thing.
13 Yes, I was surprised, so if you looked at the list
14 of areas of activity, they were all the kind of nuts and
15 bolts of the organisation. I mean there was one kind of
16 ironic thing that came out of the meeting that there was
17 a guy there from I think it was Lloyds Bank or Santander
18 anyway, they were merging I think or they had around
19 about that time, and he was in the room to give us some
20 observations on being part of a massive programme of
21 organisational change. And his one take away at the end
22 of it was that whatever else you do the single most
23 important thing you focus on during this kind of
24 organisational change is culture and then we all sat
25 down to talk about traffic and operations and firearms
26 and didn't talk about culture.

1 So, yes -- yes, I was surprised, but anyway we all
2 have personal responsibility. One person can't think of
3 everything and so I was able to then go on and assist
4 the process with a bit of work that tried to pick some
5 of those issues up.
6 Q. Thank you. Can we look at 69, please. Again, here you
7 talk about staff support associations, SEMPER, the
8 Muslim Police Association, and others:
9 "There was no sense that the organisation believed
10 that they had a strategic contribution to make to this
11 transition process. There was no sense that communities
12 had a strategic contribution to make to this process.
13 Dare I say, no real sense even that the workforce had
14 much of a contribution to make to the process. It felt
15 like if you were in the gang, then you would be in the
16 room shaping things. You would be designing it. It
17 appeared as though the reform team would bat away any
18 criticism or any contribution that differed from the
19 decisions that had already been made."
20 And I understand that Sandra Delandes-Clark, who is
21 the Chair of SEMPER, has in her Inquiry statement, and
22 hopefully she will speak to this also in evidence, said
23 SEMPER were not consulted and equality issues were not
24 considered at the time.
25 So that appears to be consistent with what you're
26 saying in your statement?

1 A. There are of course people on the team who would
2 vehemently deny that, but, yes.
3 Q. All right. Can I move on to your experience of working
4 with the public. Paragraph 33, first of all, and I'm
5 interested in paragraph 2 of this answer. So if we go
6 to 33 and look at the second paragraph, you say:
7 "I was a response officer (from 1985) primarily in
8 the south of Bristol, which was then predominantly white
9 working class, lots of poverty, lots of child neglect.
10 So much of my day-to-day work was, to put it bluntly,
11 policing poor white people."
12 I think we said at the outset of your evidence you
13 weren't in a response team in Police Scotland?
14 A. No.
15 Q. You were a DCC?
16 A. Yes.
17 Q. But you do have experience as a response officer?
18 A. Yes.
19 Q. And that was in Bristol when you worked there?
20 A. Yes, 40 years ago.
21 Q. Sometime ago:
22 "The next door division of which I ended up as the
23 deputy commander was where lots of Bristol's visible
24 minority ethnic communities lived. I can say on
25 reflection, with a degree of certainty, that we would
26 deploy probably more resource to incidents involving

1 people from the black community where there was a sense
2 there might be violence than we probably did in areas
3 where we were policing white communities. This may be
4 my personal perspective, but I think in general terms
5 there was a higher sense of risk among officers in the
6 context of policing the black community than there
7 probably was in the white community context. As I say,
8 that's a bit impressionistic and it does go back three
9 decades."
10 I'm interested in -- and 34 I should say you talk
11 about Macpherson and you say you talk of black
12 communities being "overpoliced and underprotected."
13 And at 35 you talk about policing and I won't read
14 out the whole paragraph here, but you talk about
15 policing different communities with a different sense of
16 risk. If we can move down, you'll see that.
17 We've heard evidence from a Professor Meer who gave
18 evidence to the Inquiry and he talked about racial bias
19 in judgments of physical size and formidability and the
20 size of the person and the perceived threat or harm that
21 they could potentially cause and he called it a "harm
22 bias". So a perception of a greater threat from black
23 men who may have been muscular in their physique and
24 talked about a study from America, Wilson and Others,
25 where two men of similar muscularity and size, one black
26 one white, and I'm summarising here, the black man would

1 be seen and perceived as being at greater risk of
2 causing harm and greater threat.
3 And Professor Meer talked about the impact and the
4 consequences of that perception and he said that, yes,
5 if there was a perception of the black man that he was
6 potentially going to be capable of causing greater harm
7 and that was a misperception, because the men, the white
8 man and the black man, were similar sizes. He said that
9 there's an over-attribution of size, but there's a
10 greater likelihood of perceiving the man as causing --
11 risk of causing greater harm. And he said that it
12 didn't simply stop there, not just in terms of size and
13 harm, but the consequence of that was that potentially
14 greater use of force would be adopted against the black
15 man and that that force would go on longer.
16 I'm interested in -- I have obviously summarised
17 Professor Meer's evidence to a large extent, but does
18 that appear to tie in with what you were saying about
19 this perception of harm when you were policing black
20 communities?
21 A. I'm trying to access the dynamic at the time a long time
22 ago. I -- I recognise what you say. I think it was --
23 I think our perception, so I'm talking me as a young
24 patrol officer, I think our perceptions were driven --
25 my perception is probably driven that would be
26 subconscious I think or unconscious.

1 Q. Yes.
2 A. I think our kind of front of our head perception would
3 have been driven by the history of violence in black
4 communities and we don't need to talk for very long
5 about why that might have happened, but -- so I was a
6 PC, I think I referenced some of them there, you know,
7 we had St Paul's, we had Brixton, we had Toxteth we had
8 and so as part of your kind of wiring it just somewhere
9 it was these communities are more volatile. If we get
10 this wrong or we go in insufficient numbers, we are at
11 risk of -- I mean I can kind of remember the sense of
12 the risk of being surrounded if you went in just a
13 couple of you. I mean we were -- it was these days
14 that -- I mean I talk about, you know, policing
15 differently, we weren't --
16 So the division I was on was adjacent and next door
17 to St Paul's, and we could -- again, forgive my
18 language, but we could pursue vehicles that were
19 involved in criminality, we could pursue them to our
20 heart's content, wherever on the division we wanted to
21 go. If we pursued a vehicle from our division across
22 the boundary and it became clear it was heading into
23 St Paul's, then we were more often than not called off
24 the pursuit or we were required to get additional
25 permission from the control room based on additional
26 resources that were around us to support us.

1 So if I say there was just something in the kind of
2 atmosphere of policing in that place at the time.
3 I think there was -- there was a sense of I mean I'm
4 just trying to makes I'm not -- I'm not getting my
5 chronology wrong, but I think there was -- there was
6 talk of "Yardies" and a sense of young black men being
7 involved in kind of serious organised crime in terms of
8 drug dealing in way that in white estates it was
9 sniffing glue and a bit of cannabis and just -- of
10 course those things aren't true, but I'm just trying to
11 give you access to where I think my head and maybe my
12 colleague's heads were. So it was sort of reinforced by
13 the organisation in terms of operational procedures and
14 what we saw on the news and Keith Blakelock had been
15 killed and we were, you know, you didn't want to be the
16 next Keith Blakelock.
17 So there was a lot going on around that. And that's
18 what I mean about when I talk about we used more
19 resources. I would say in general terms you would want
20 back up going into St Paul's in a way that you wouldn't
21 necessarily going into Bedminster, you know, two miles
22 down the road and all those things build, they build a
23 kind of background mindset.
24 Q. And that mindset was not corrected by the service that
25 you were working within at that time?
26 A. No. I mean, there were -- you know, again you give a

1 really straightforward answer but there were some real
2 heros, Superintendent Dave Warren that I worked with in
3 St Paul's was a real pioneer of police engagement with
4 communities. Detective Superintendent Steve Livings who
5 was involved in the development of family liaison and
6 there was a murder in St Paul's on New Year's Day in
7 1996 of a guy called Bangy Berry who was a community
8 worker who intervened in a robbery and got killed for
9 his trouble right in the middle of St Paul's and the
10 police response to that, you would still look at that
11 now and say that was exemplary because it was about
12 engagement with the community and the family and -- you
13 know, so these -- these things are never binary, it was
14 not just it was all bad, there was some great stuff
15 going on, but I'm just trying to give a sense of the
16 kind of prevailing things that played around in the mind
17 of a patrol officer at that time in that place.
18 Q. Thank you. Thank you. I would like to move on to
19 paragraphs 44 and 45 and this relates to the death of
20 Mr Menson. So we talked about this paragraph at the
21 beginning of the day.
22 A. Yes.
23 Q. Let's look at 44, first of all. This is the one that
24 you corrected this morning for us:
25 "One case immediately came to make when I was asked
26 about those terms was, there was a man called Michael

1 Menson, who was a black musician who was found at the
2 side of the road. He had burns all over his body and
3 was taken to hospital. If I remember rightly, while he
4 was in hospital, in and out of consciousness, he told
5 the nurse that he'd been attacked. The Met decided he
6 was a mad, bad schizophrenic who'd set fire to himself
7 and that was how the case was finalised. The Racial and
8 Violent Crime Task Force reinvestigated the case and
9 managed to find a telephone box which Michael had been
10 he would against, strayed with some sort of accelerant,
11 and set on fire. Clearly he'd been murdered. They
12 reinvestigated it."
13 And then you've corrected the position regarding
14 these suspects.
15 A. Yes.
16 Q. And you say 45
17 "That was a massively impressive piece of detective
18 work, a massively important case, like the racist murder
19 of Stephen Lawrence, in terms of challenging the
20 perception of the first officers on the scene, and
21 challenging the perception about an investigative
22 hypothesis or investigative strategy that decides within
23 the first 20 minutes what's happened and then you go
24 around looking for the evidence to prove your case. The
25 reason that triggered in my mind was I think it was my
26 reading around that case, and also reading about a

1 number of deaths in custody, that were ascribed to
2 positional asphyxia, that raised my awareness of police
3 attitudes to mental health issues. I think that would
4 have been when I started to become aware of terms like
5 that and to read a bit more into some of the mental
6 health issues and the behaviours that can be mistaken
7 for being drunk or on drugs. The Michael Menson case,
8 I believe, is really important in this context."
9 I'm interested in your impressions of the
10 significance of this in relation to policing someone who
11 has been perceived as having mental health issues.
12 A. Yes, and I must make clear that I had nothing personally
13 to do with that case in terms --
14 Q. Yes.
15 A. -- of its investigation or the aftermath. The reason it
16 matters to me is it's one of the very first boxes of
17 files I got out when I arrived in the Met and the
18 Diversity Directorate and I can remember just thinking
19 I'll just get a sense of this case because it's clearly
20 important to the history of the unit and just being
21 immersed in it for days, reading as much as I could. So
22 in terms of its personal impact on me, I think it was
23 significant. In terms of your question, there's
24 probably not much more I can add than is in the
25 paragraph. I think -- I think the issue about -- the
26 issue about not deciding what you're dealing with

1 straightaway is just so fundamental, just so fundamental
2 to effective policing. And I think -- you know, I see
3 issues around mental health as very clearly all part of
4 the same agenda and the same world as diversity and
5 equality because it's about -- fundamentally it's about
6 understanding that the way you see the world through
7 your eyes is not the same as the way everything else
8 sees the world through their eyes and if you interpret
9 it through your eyes, you're going to completely
10 misinterpret so many things about that other person and
11 their behaviour. And I mean -- yes, I mean this case
12 has so many things in it but that I think is one, you
13 know, not listening to Michael when he was in hospital,
14 not listening presumably to the nurse to whom Michael
15 told the story, and and having -- I mean, I can't
16 remember the detail well enough but being labelled a
17 schizophrenic early on and it was like, oh, that's all
18 right then, we've sussed this out, we know what this is,
19 when it fundamentally wasn't that and I think it was
20 also one of the first -- one of the first cases for me
21 where I had a glimpse of, because I had -- I had had
22 dealings with Neville Lawrence before this but
23 understanding and having -- not understanding, having a
24 glimpse of how appallingly difficult it must be to be a
25 member of someone's family and feel you're not getting
26 justice and how much -- it sounds like sickly and

1 patronising but just how much respect and admiration I
2 have for the determination and the dignity and just the
3 sheer staying power of families from, you can list the
4 cases, but the Lawrences, Mensens, Sylvesters,
5 Sean Rigg's family, the San Family, and in my view these
6 cases should be required reading at training so that
7 people -- initial training because lots of colleagues
8 that I spoke to about this case when I was seized of it
9 back in 2003, lots of colleagues just could not accept
10 that the police could get it so badly wrong. They just
11 could not accept that the police were capable of
12 misreading something, of failing to listen to a family.
13 So I haven't answered specifically your question but I
14 think the sense of why it has to be included in my
15 statement because it had a very kind of powerful
16 learning and powerful emotional impact on me at the
17 time.
18 Q. Thank you. Can I stop you there for a moment, please?
19 A. Yes.
20 Q. Would that be an appropriate time?
21 LORD BRACADALE: We'll stop for lunch now and sit at 2 o'clock.
22 (1.01 pm)
23 (Luncheon adjournment)
24 (2.04 pm)
25 LORD BRACADALE: Ms Grahame.
26 MS GRAHAME: Thank you. I would like to go back to something I asked

1 you about
2 before lunch just very briefly. Could we go back to paragraph 85
3 of your
4 Inquiry statement, please, and this is where you talked about the
5 Macpherson
6 definition, and I asked you earlier today:
7 "You see it detected in processes, attitudes and
8 behaviour, which amount to discrimination."
9 If we can move up the page:
10 "Through unwitting prejudice, ignorance,
11 thoughtlessness and ways of stereotyping."
12 If we could return to that phrase "unwitting
13 prejudice" there, is there scope within the Conduct
14 Regulations and the conduct arena of the police for
15 unwitting racism to be dealt with?
16 A. Off the top of my head, I would say theoretically yes.
17 You're taking me back many, many years to my
18 recollection of Conduct Regulations, but whether it
19 would be -- whether you would be dealing with unwitting
20 prejudice or you would be dealing with the consequences
21 of it is probably the distinction. I don't -- yes,
22 unless you can help me any more with the question.
23 Q. Well, if there was unwitting so unknowing --
24 A. So displayed by --
25 Q. -- racism.
26 A. -- an individual.

1 Q. By or prejudice and we're interested in racism --
2 A. Yes.
3 Q. -- by an individual, could that, is there anything that
4 would stop that being dealt with in terms of the
5 Regulations on conduct?
6 A. I can't see why, no.
7 Q. All right, thank you. In your experience do you recall
8 any examples of unwitting prejudice being dealt with
9 through the conduct sphere?
10 A. Not immediately. I would have to give it some thought.
11 Q. All right. Thank you. Can I move on then, please, to
12 paragraph 49 and here you talk about a comparison
13 working for England and Wales and Police Scotland,
14 comparisons between working for the police in England
15 and Scotland:
16 "My observations about policing in Scotland
17 following my first year or two in Lothian and Borders
18 Police were... "
19 And you have given the Chair a number of
20 bulletpoints in relation to this?
21 A. Yes.
22 Q. And I'm interested in one specific bulletpoint here and
23 that's the fifth:
24 "Compared to England and Wales a lack of impact from
25 the office of HMIS."
26 And then I think you also talk about this at 61 and

1 63 and if we could turn to them briefly. Here we are:
2 "It didn't feel to me that Her now His Majesty's
3 Inspector of Constabulary Scotland (HMICS) had quite the
4 influence and penetration into everyday policing that it
5 had in England and Wales in terms of the impact of its
6 reports. In England and Wales, there was a constant
7 process of basic command unit inspections by the HMIC,
8 so if you were a divisional commander you could expect
9 at some point the HMIC's team to turn up and take your
10 division apart and produce a report. Those were very
11 influential processes and that was absent in Scotland."
12 And then at 63 you say:
13 "I think I felt less accountable to the Police
14 Authority in Lothian and Borders than I had in England.
15 As a senior officer running a force, I think the Police
16 Authority were less intrusive and less rigorous with us
17 than I had experienced in England. I felt slightly less
18 uncomfortable being held to account by them. I think
19 the public generally in Scotland had more trust and
20 confidence in policing in Scotland than communities did,
21 and certainly were developing in the later years in
22 England. There hadn't been the same high profile
23 failures in Scotland, I don't think."
24 I'm interested in your reflections on the
25 differences then between the HMICS in Scotland and what
26 impact they had in Scotland on the police compared to

1 your experiences which sound much more rigorous, is
2 I think the word you use, in England. What were the
3 difference then?
4 A. I think the first thing to say is probably I have -- the
5 way I have phrased that makes it sound inevitably like
6 it's a bad thing that the Scottish HMIC was less
7 intrusive or whatever word I used. I think I would have
8 been better describing it as different. And I say that
9 because what I write is true that in England and Wales
10 the programme of basic command unit inspections was very
11 intrusive, I was on the receiving end of one myself at
12 Westminster, and the team came in a bit like you imagine
13 an Ofsted inspection and they take apart your
14 observations and produce a publicly available reported.
15 I think one of the challenges with that is there's
16 nothing essentially wrong with that as a process, but,
17 as in all these things, it depends what they're
18 inspecting, because they drive behavior by the things
19 they inspect and particularly at that point, which was
20 probably the mid to late nineties, I think the Met was,
21 in common many other forces, was in the grip of the
22 performance -- I call it performance mania, but being
23 driven by government, but everything was about
24 performance culture, do you have a performance culture,
25 are you chasing the numbers and the HMI would come in
26 and the kind of mental model they brought into an

1 inspection was, where's the performance culture, where's
2 the performance framework? And if they didn't find it
3 in the way that they wanted to find it, then you weren't
4 doing a good job or your division wasn't being run
5 right. And again, my personal view is that drove some
6 less than desirable behaviours I think.
7 So the fact that they had an intrusive process that
8 was respected and was known about by divisional
9 commanders and force hierarchies, that is true, whether
10 or not that was always a positive. I think in Scotland,
11 and I want to say this with the utmost respect to the
12 people that fulfilled the roles, I think in England and
13 Wales Her Majesty's Chief Superintendent of
14 Constabulary, to my recollection, was always previously
15 a senior chief constable and his, his or her staff were
16 assistant chief constables, chief superintendents. And
17 certainly for the period of time that I'm talking about
18 in Scotland, the rank of the individuals who held that
19 role I think there was -- it doesn't matter, but they
20 weren't senior long-serving Chief Constables. So
21 I think the kind of -- it sounds mad, but the sort of
22 level of respect for their intrusion into your affairs
23 was probably less so, because, rightly or wrongly, you
24 would regard their credibility as not quite as
25 significant as that of a senior chief constable.
26 I would say and I said I would not offer a comment

1 on present, but sitting outside the organisation now,
2 I think that is changing and I do think now that the
3 office of Her Majesty's Inspector in Scotland is
4 producing some quite incisive and quite intrusive
5 reports that are clearly having an impact, so I think
6 that is changing, but I think -- yes, it was just a
7 slightly different culture around what HMIC was and they
8 had far fewer resources, so far less ability to go out
9 and do big thematic inspections.
10 Q. All right, thank you. So in terms of your perspective
11 on HMICS, do you have any views on what, if anything,
12 would need to change or what could be done to improve
13 the reports by HMICS, the regard with which they're
14 considered in the service?
15 A. The only thing I would offer is I was not a big
16 supporter at the time of handing the role over to a
17 nonpolice officer and I think it worked really well, so
18 I think in Scotland we should consider Her Majesty's
19 Inspector not having a police background.
20 Q. Right, we've certainly heard from a number of witnesses
21 about the number of police officers or former officers
22 who were involved in PIRC doing the investigations. Do
23 you think that minimising police involvement wouldn't be
24 a bad thing in internal bodies?
25 A. I think getting the balance right would be an excellent
26 thing. I think you do need a guide to the highways and

1 byways of police culture and practice sometimes, so I
2 think you need to retain that kind of knowledge and
3 experience in the team, but I think in terms of where
4 you front up to an investigation and you deal with
5 families in the public and the overall -- the overall
6 strategy for the investigation, I think it's important
7 that you have that separation and that you have
8 investigators who haven't got a police background.
9 Q. Thank you. Can we move on to paragraph 84 of your
10 Inquiry statement, please. And this is a return to the
11 section on racism and the police:
12 "During my service I have seen overtly racist
13 behavior from police officers and staff and have never
14 been in doubt that the service generally is
15 institutionally racist. I have spoken often at events
16 inside and outside the service to express that view. At
17 the point I left Police Scotland, it too was an
18 institutionally racist organisation. The evidence ..."
19 That was 2015, December 2015?
20 A. Yes.
21 Q. "The evidence included recruitment outcomes,
22 representation in the misconduct system, the lack of
23 representation in senior ranks, attitudes to the staff
24 support associations, the failure to recognise the
25 importance of the issues during the transition in 2013
26 and a performance regime that drove increases in

1 activity that were well documented as impacting
2 disproportionately on minority communities."
3 I would like to go through that list, if I may?
4 A. Gosh.
5 Q. You say that Police Scotland was institutionally racist?
6 A. Yes.
7 Q. And the evidence for your views on that included
8 recruitment outcomes; what was it about recruitment
9 outcomes that concerned you?
10 A. That the proportion of people from minority ethnic
11 communities in the police was not representative of the
12 proportion in the community at large.
13 Q. Right. Could you see a way for that being improved,
14 recruitment from the minority ethnic and black
15 communities?
16 A. Well, it sounds glib, but become an outstanding
17 organisation where everyone is respected and valued,
18 where you deliver outstanding performance to communities
19 and you make it an organisation that people aspire to
20 join.
21 Q. Thank you. Representation in the misconduct system.
22 Now, we've touched on this today already. Was there
23 anything else that was obvious to you that gave rise to
24 this view that the police service was institutionally
25 racist?
26 A. I think we've covered that earlier, yes.

1 Q. The lack of representation in senior ranks, I think you
2 have covered that?
3 A. Yes.
4 Q. Unless there's anything further you want to add?
5 A. No.
6 Q. Attitudes to the staff support associations. Again,
7 I think you have explained that, unless there were
8 anything -- any other comments you would like to add in
9 relation to that?
10 A. No, I think the only other point I would make is that --
11 is that those who engage in the staff support -- so I'm
12 thinking SEMPER just to keep it straightforward, the
13 people that sit on the executive committee that do the
14 work that keep the organisation going are by and large
15 to my recollection in my time were constables and
16 sergeants and maybe an inspector and their -- again,
17 there is no disrespect to the individuals, but if we
18 then expect them to engage at a strategic level in the
19 organisation, so to sit down with chief officers, to sit
20 down with Police Authority, with HMICS, we're expecting
21 almost the impossible of them, unless we, the collective
22 we, find a way of investing in their capability and in
23 the resource they've got available to them to perform
24 the role that we want.
25 So you could say, well, SEMPER are invited to engage
26 with us on what wellbeing meant in a community and how

1 that might impact on performance regimes and leadership
2 styles and you're asking -- you're asking people who
3 don't routinely operate in the kind of strategic
4 environment and haven't had the training and the
5 experience that the people like me that they're meeting
6 have had and we're asking them to go in and perform a
7 useful function and then, and I've heard this about a
8 number of staff support associations, and then you leave
9 the meeting and a colleague you're with says:
10 "I don't know why we bother because really what have
11 they contributed."
12 And you think, well, what possible chance do they
13 have of contributing if you don't kind of equip and
14 support. The challenge for the organisation doing that
15 is you don't want to set up a relationship where they
16 are dependent on your patronage for all their resources
17 and all their training and support. So it's finding a
18 way of resourcing that independently so that you give
19 them the best possible chance of engaging at the level
20 that you want them to engage at. And I think the
21 failure to do that derives from unwitting ignorance or
22 thoughtlessness or --
23 Q. With the repercussions of their lack of training or
24 awareness?
25 A. Yes, just because -- just because if you don't actively
26 think that through, then you're denying the organisation

1 the opportunity to deliver a fair and appropriate
2 service to communities because you're not listening
3 effectively to a voice that you could listen to.
4 Q. Thank you. And then you go on to say:
5 "The failure to recognise the importance of the
6 issues during the transition in 2013 [which you have
7 touched on] and a performance regime that drove
8 increases in activity that were well documented as
9 impacting disproportionately on minority communities."
10 Now, you have touched on the performance regime when
11 I asked you about HMCS. I'm interested in this area
12 where you say "impacting disproportionately on minority
13 communities." Can you provide a little more detail
14 about what you mean there?
15 A. I think without seeing what comes after I think --
16 Q. We can move up the screen.
17 A. It doesn't matter, but I think I'm talking about stop
18 search there.
19 Q. Yes.
20 A. So we know historically that stop search
21 disproportionately impacts on minority communities,
22 I don't think there's a lack of documentation on that,
23 and the performance framework in Police Scotland in the
24 first -- certainly in the first couple of years when I
25 was there drove stop search activity in a way that I
26 still don't quite understand why we did it that way.

1 So stop search -- just for the avoidance of doubt,
2 stop search is something I think is a really, really
3 important police tactic. I think we also have to
4 recognise that there is virtually no evidence, as I
5 understand it, that the level of stop search is causally
6 related to the levels of crime and I think -- I think
7 I was training, grew up understanding stop search to be
8 a tactic or a power that would enhance relationships
9 with communities and the reason being -- so I joined the
10 police just as PACE was introduced in 1986 by the time I
11 got operational so it introduced section 1 of PACE,
12 which was police stop and search so all stop search in
13 England and Wales is statutory, unlike the position back
14 then in Scotland where it was voluntary. But the way
15 I was trained on stop search was this power exists so
16 that where you have reasonable grounds to suspect that
17 someone is committing an offence, you have an option
18 short of arresting them, so you can search for stolen
19 and prohibited articles on the street rather than having
20 to arrest them, take them to a police station and search
21 for those articles.
22 So the idea was it gave you an opportunity to
23 conduct an encounter on the street which meant you may
24 well not have to arrest someone, whereas previously you
25 might have done and, as I say, my best recollection of
26 my training is that we were trained in it as a method of

1 de-escalation or as avoiding of unnecessary arrests.
2 And these numbers might be right. I think I'm
3 pretty confident they're right. I can find you the
4 source document. But if you look at the numbers of
5 people stop searched in 2014, per thousand of the
6 population, in Manchester, it was ten per thousand of
7 the population. In London it was 35. In Edinburgh, by,
8 2014, it was 49. In Glasgow it was 191. Now, I defy
9 anyone to look at those numbers and suggest that somehow
10 there wasn't something wrong going on either in
11 Manchester or in Glasgow, but, you know, my view would
12 be obviously Glasgow.
13 In 2014 Police Scotland carried out more stop
14 searches on 16-year-old boys than there were 16-year-old
15 boys in Scotland. So the numbers are just -- they just
16 don't make sense. This activity was being driven by an
17 interesting performance regime where the top if the
18 organisation said there are no targets for this
19 activity, but from some debriefing work I did after the
20 Commonwealth Games I captured anonymised data from
21 around the organisation where officers were saying,
22 well, that's just ridiculous, because of course we have
23 targets. And this is the point about how performance
24 regimes drive less than ideal behavior.
25 So officers were reporting that to get their daily
26 target numbers they would at the beginning of their

1 shift go to the place where it was known homeless people
2 would congregate and search them and that would get the
3 numbers. There were traffic units who had dedicated
4 patrol cars that would go out and chase the speeding
5 tickets and the seatbelt tickets, so that everyone else
6 could get on with what they understood to be the proper
7 work of a road policing unit. So these kind of
8 behaviours were evident in Police Scotland, driven by,
9 as I say, a performance -- performance regime which kind
10 of the top and the bottom didn't say the same thing.
11 And back to your point, if you're driving levels of
12 stop search activity like that you must surely be having
13 a disproportionate impact. We knew -- I have already
14 talked about young people and to get the numbers up lots
15 of young people were searched or they were stopped and
16 alcohol seized of them and there were times when those
17 were recorded as stop searches. So the disproportionate
18 impact on young people is kind of self evident.
19 I can't give you -- I can't quote the numbers or
20 even the document, but there is a document where there
21 is some analysis of the data around minority ethnic
22 communities in Scotland and it does point to
23 disproportionate application of stop search, but the
24 point is this is where you come back to institutional
25 racism can be evidenced by the fact that you have not
26 asked the question to get the data that you need to

1 understand whether or not you're delivering a
2 disproportionate impact. That's my interpretation of
3 it. That there's a question there to be asked and if
4 you simply don't look and simply don't ask the question,
5 then that prima facie to me is evidence of institutional
6 racism.
7 Q. Thank you.
8 A. And as I say, stop search was so -- it's such a clear
9 example of something that the police know, we know, from
10 years and years and years, we know it's disproportionate
11 impact and I mean others will be able to come and tell
12 you about all the work that was done to try and
13 performance manage it, but that's certainly my view from
14 where I sat in Police Scotland that that was part of our
15 picture of institutional racism.
16 Q. Thank you. Can I move on, please, to paragraph 91 of
17 your Inquiry statement. There we are:
18 "The first step in addressing institutional racism
19 is to recognise and acknowledge its existence. At some
20 point in 2015 I sent an email to my colleague who had
21 responsibility for these issues asking what the
22 Police Scotland position was on institutional racism.
23 I was asking because we were regularly discussing it at
24 CIM training."
25 Is that Critical Incident Management training we
26 have been talking about?

1 A. Yes.
2 Q. "... and I was expressing my personal view, but had no
3 real idea what the official position was. I never got a
4 reply."
5 Can you tell the Chair a little more about this
6 situation in relation to your message to a colleague?
7 A. I think that pretty much sums it up. I mean I would say
8 in defence of my colleague that we all know emails get
9 sent and sometimes never arrive, but I think -- I mean
10 it's as simple as that. I sent a three or four line
11 email saying along the lines of we're discussing this
12 kind of on a regular basis at critical incident
13 training, I am giving my personal view, but that may not
14 be the view of the organisation and, therefore, what's
15 the view of the organisation so --
16 Q. And did you ever receive any indication from the
17 organisation as to what the position was in 2015 about
18 institutional racism?
19 A. No, but I also didn't want to give the impression that
20 twice a week I was knocking on people's doors asking
21 what our position on institutional racism was. I mean
22 I think -- I think the discussion was more often framed
23 in terms of culture and in terms of -- I think as I
24 recall it, sort of 2015, end of 2014, I think service
25 was developing one of its first kind of strategic
26 documents going forward and it's -- I won't repeat

1 myself, but it's back to the issues we talked about
2 earlier about -- about if you can't be clear about what
3 your organisation is going to be doing, you then can't
4 really be clear about what kind of culture and what kind
5 of leadership model supports you in doing that. So the
6 conversations were around -- more around culture and
7 strategic thinking than they were specifically about
8 institutional racism. But you're right I asked the
9 question and never got a reply.
10 Q. Thank you. Finally, I would like to move on to the
11 issue of recommendations and the Chair will ultimately
12 have to consider recommendations and I wonder if we can
13 look at paragraph 130 of your Inquiry statement:
14 "On the more general point about reports into the
15 police handling of cases and/or culture (for example,
16 the Macpherson Report, the Chhokar Report,
17 Louise Casey's Report, the Morris Inquiry report,
18 various Metropolitan Police Authority reports) there are
19 broad similarities in the recommendations that arise
20 from them. They deal with leadership, training,
21 accountability, professional competence and effective
22 engagement with communities and families. The real
23 challenge is not coming up with the recommendations, it
24 is about how you implement the recommendations in a way
25 that leads to a real and sustained change in the
26 experience of those we police. The recommendations

1 arising from the murder of Simon San cover similar
2 issues. They cover the need for awareness among our
3 staff about the needs of families and communities; the
4 need for an organisational culture that enables people
5 to speak out; the need for adequate and appropriate
6 training. As I've said, the legislative frameworks are
7 different in Scotland and England, but the
8 recommendation from all these reports will have
9 relevance and meaning in both countries."
10 Now, we've heard from a number of witnesses about
11 recommendations and the word implementation has been
12 used. We have heard evidence from Lady Angiolini who
13 talked about the emergence of the same themes in many of
14 the deaths of -- particularly of black men and she
15 described that as indicative of a failure to learn
16 lessons. And we've heard from Professor Meer that many
17 of the recommendations have simply not been implemented.
18 And I'm interested in -- your evidence also appears
19 to focus on implementation as being a key aspect; is
20 that fair to say?
21 A. Absolutely, yes. And if I can just start by caveating,
22 again, nothing I'm about to say concerns what
23 Police Scotland is currently doing.
24 Q. Yes.
25 A. I haven't been part of those discussions, I don't -- so
26 if you take this as being extant up to 2015. And I

1 personally was on the receiving end of quite a lot of
2 these reports and responsible for the implementation or
3 the monitoring of the implementation, and the picture
4 that I have in my head is of constantly putting new
5 wallpaper up on a damp wall. So it looks really nice
6 for a while, but because the wall is still damp,
7 eventually it curls at the corners and falls off. And
8 my experience is that you have -- you have an inquiry
9 and, sadly, of course they're mostly driven by someone's
10 death, you have the recommendations, they're picked up,
11 you have individual leaders, often charismatic people,
12 often highly talented people who develop a response and
13 move things forward and then something in the
14 organisation changes or something in the political
15 environment changes and enthusiasm wanes.
16 The other element of that is that I think far too
17 often police are allowed to mark their own homework and
18 I think far too often we have historically regarded
19 implementing a recommendations as a proxy for delivering
20 the outcomes it was designed to deliver. So we will
21 say, we had an action plan, it had 17 recommendations on
22 it, here's a report telling you how we've implemented 15
23 of them and that doesn't tell you anything about levels
24 of trust and confidence in the community.
25 So I think -- I think the kind of territory that --
26 forgive me -- we should be in in terms of how we think

1 about going forward is what I have always called the
2 Macpherson gap. So in part 2 of the Inquiry when
3 they're travelling around the country, Macpherson talks
4 about the inescapable evidence provided of a
5 difference -- of a difference -- I can't remember the
6 exact words -- in opinion between police and
7 communities. It talks about -- it talks about the stark
8 contrast between the positive descriptions of policies
9 by senior officers and the negative experiences played
10 back by communities who clearly feel that they are
11 discriminated against.
12 So obviously points to -- and I think -- it is
13 I think a couple of pages further on in the context of
14 hate crime, he talks about the common experience of
15 communities is of fine policies and fine words from
16 senior officers and yet of indifference on the ground
17 and it's that indifference that is most damaging to
18 trust and confidence. They're not exact quotes, but
19 they're -- you get the sense of it and I think --
20 I think we need to find a way of closing that gap and it
21 seems to me and please don't press me on too much
22 detail, but it seems to me that we have to find a way
23 and I have always thought of this as like a national
24 convention on policing.
25 So we need to find a way of bring people from
26 communities all the way across Scotland into a place

1 where they can have a discussion with us in the room
2 about what policing should be, what policing they want
3 and deserve, and then to engage in a discussion about
4 what kind of police service will deliver that and then
5 fundamentally for communities for that convention to
6 define the performance indicators for which they are
7 going to hold the police service to account. So that
8 the process of defining success and holding us to
9 account for success is taken out of the service.
10 So the service will talk -- again going back to
11 2015 -- the service will talk about developing metrics
12 around delivery and it will talk about its equality
13 outcomes under the general duty, specific duties, but in
14 the end they all in my experience tend to kind of stop
15 when you stop measuring inputs and because it's very
16 difficult to get to outcomes, it's very difficult for
17 the police because they're focused on resources and kind
18 of moving on to the next thing very often. So I think
19 some kind of big way of engaging communities in the
20 process of setting performance indicators and then
21 holding up to account that doesn't usurp the
22 Police Authority, because their role as the kind of
23 day-to-day sits alongside it. So that would be -- yes,
24 that's a sort of vague recommendation.
25 I think, if I may, there's probably may be three
26 other things. One would be to think about the general

1 duty and the specific duties and whether or not we
2 should -- whether or not we should put around them a
3 stronger statutory framework, because if I -- I mean
4 this might have changed, so if it has then please ignore
5 me. But my recollection is that the sanction for
6 failing to meet your duty is a notice from Equality and
7 Human Rights Commission and I think that's it. So I
8 think we need to think about holding the police's feet
9 to the fire more strongly on that, because it seems to
10 me in the wording of those duties lies the way out of
11 institutional racism and a lot of other things so and
12 it's there, it's already in statute so can we find way.
13 And then two other things. They're both based on my
14 experience of what has successfully in my opinion
15 changed my levels of awareness and understanding and I
16 believe I have seen it do same for staff and the
17 first -- and they're both versions of the same thing,
18 which is it's about having personal contact with the
19 lived experience of others and it's about having that in
20 a prolonged way, so not a two-day course, not a visitor
21 in the afternoon.
22 And my suggestion would be to think about every
23 course of probationers that goes through their initial
24 training, for the duration of that course, they have as
25 part of the staff team for their group someone appointed
26 from outwith the police who has lived experience in a

1 minority community of living with a protected
2 characteristic. Obviously, they would need training and
3 support and the rest of it, but that person travels the
4 journey with that group of probationers and they get the
5 opportunity to get to know each other, they get the
6 opportunity to hear about a different life, they get the
7 opportunity to learn to challenge and that puts a lot of
8 responsibility to put on that person, but that person
9 can model challenging the police officer members of
10 staff in that -- in that learning group. And I think
11 that would be very powerful and I don't think it would
12 be overexpensive and someone will turn around and tell
13 me they already do that.
14 The other, and it's a very, very similar version of
15 the same thing, which, again, excuse me, but one more
16 anecdote. When I was the commander at Bath, the
17 Divisional Commander at Bath, I employed a man who was
18 an ex-professional footballer called Carl Saunders, a
19 black man who had retired early because he was injured.
20 And the story of how he got to me doesn't matter, but he
21 was employed on the basis that he only had one line
22 manager and that was me, the Divisional Commander, and
23 his job description was "make things better". And he
24 basically had the freedom of the division. And he did
25 lots of great initiatives with young people in schools
26 and things like that.

1 But the power of what Carl achieved was he was in
2 and around the police station everyday and he would go
3 and sit in the parade room when cops were in having a
4 cup of tea and he would sit and talk to them and they
5 would ask him the questions that they probably wouldn't
6 have asked on a diversity training course, because he
7 was their friend, he got to know them and shared their
8 lives.
9 A powerful thing he did for a number of people was
10 just over the road from the police station in those days
11 was a branch of a famous electricity retailer and Carl
12 would -- obviously with them not in uniform, but Carl
13 would walk them across the road, go into the front of
14 the shop and he would say to the officer or member of
15 staff, I'll go left, you go right, but what you need to
16 do is watch where the security staff go and he knew
17 without a shadow of doubt that the security staff would
18 always move in the direction that he went, not in the
19 direction that the usually white officer would go. And
20 that's the kind of thing that's very difficult to learn
21 on e-learning or on a classroom-based course. It's
22 about that experiencial thing and about that being
23 long-term so Carl was an employee.
24 The challenge -- again, we come back to -- and I
25 would -- I would think if every division in
26 Police Scotland and they might already have one -- if

1 every division in Police Scotland had someone with that
2 kind of remit and that kind of authorising environment,
3 ie at the top of the organisation, I think that would be
4 very powerful. The challenge comes in asking people to
5 perform that role in a police organisation that isn't
6 culturally equipped to deal with it.
7 So again -- and I know a lot of my evidences makes
8 it sound like I think I know the answer to everything,
9 I don't at all. When I left to move up to the Met, Carl
10 was moved into the headquarters Community Affairs
11 Department and given a job description and a role
12 profile and was put into the chain of command and
13 because he was police staff of course he was now
14 reporting to a sergeant and it completely undermined the
15 whole point of what Carl did, because it turned him into
16 someone who was now -- they were trying to squeeze him
17 back into the system.
18 I knew it was a good thing one afternoon when I --
19 and I still remember walking into the sergeant's office
20 and there was a sergeant and there was Carl and they
21 were having the most intense discussion about why
22 something was racist and why it wasn't. And the
23 sergeant -- it wasn't an argument, it was a learning
24 experience for the sergeant and it was a learning
25 experience for Carl in terms of understanding kind of
26 where the police priorities in this were. And those

1 were the kind of discussion without fear of censure,
2 without fear of suddenly finding yourself in a
3 discipline process, without being on a course, probably
4 with people you haven't met before and in front of a
5 tutor or teacher who carries organisational authority,
6 somewhere in there is the germ of the kind of thing that
7 I think will in the end take us forward.
8 But, yes, I'll leave it there.
9 Q. Thank you very much. Could you give me one moment,
10 please.
11 A. Hm-hmm.
12 Q. Thank you very much. I have no further questions.
13 LORD BRACADALE: Are there any Rule 9 applications? No.
14 Well, Mr Allen, thank you very much for coming to
15 give evidence to the Inquiry. I am very grateful for
16 your time. We're about to adjourn and then you'll be
17 free to go.
18 A. Thank you very much, sir.
19 LORD BRACADALE: Adjourn until 10 o'clock tomorrow morning.
20 (2.50 pm)
21 (The hearing was adjourned to 10.00 am on Wednesday, 3rd
22 July 2024)
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26

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