

## Transcript of the Sheku Bayoh Inquiry

Tuesday, 2 July 2024

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

(10.12 am)

LORD BRACDALE: Now, Ms Grahame, I understand you want to clarify a matter.

MS GRAHAME: Yes, thank you. On Friday when I was asking Sir Iain Livingstone

questions about the results of the Police Scotland survey which was PS 18903

at page 8, I put to Sir Iain the known figure that 40 per cent of respondents

agreed that institutional racism is an issue for Police Scotland and I

inferred that 60 per cent disagreed.

I'm now told that this overlooked the "don't know" and "neither" categories and the true figure for respondents disagreeing with the statement was 47 per cent and I simply wish for that to be noted on the record today if I may.

LORD BRACADALE: Thank you. Can we have the witness back in, please. Good

morning, Mr Allen.

A. Good morning, sir.

LORD BRACADALE: Can you say the words of the affirmation after me.

RETIRED DCC STEVE ALLEN (AFFIRMED)

LORD BRACADALE: Ms Grahame.

## Transcript of the Sheku Bayoh Inquiry

1 MS GRAHAME: Thank you.

2 Examination-in-chief by MS GRAHAME

3 Q. Good morning, Mr Allen.

4 A. Hello.

5 Q. Are you Steve Allen?

6 A. I am.

7 Q. What age are you?

8 A. 60.

9 Q. And you have provided a statement to the Inquiry, which  
10 I'll come to in a moment, but am I right in saying that  
11 you're a former police officer?

12 A. I am.

13 Q. In 1985 you joined Avon And Somerset Constabulary and  
14 you remained there until 2003?

15 A. Yes.

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

17 A. Yes.

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

19 A. I did.

20 Q. And in January 2010 you joined Lothian and Borders  
21 Police?

22 A. That's correct.

23 Q. And you worked there until 2013 when Police Scotland was  
24 formed, we've heard that was on 1 April 2018, and then  
25 you continued to work for Police Scotland until

## Transcript of the Sheku Bayoh Inquiry

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

## Transcript of the Sheku Bayoh Inquiry

1           responsibility and accountability for my part in shaping  
2           the organisation it was in 2015.

3       Q.   Thank you.  And as I have said, you retired in  
4           December 2015 and at that time your rank was DCC?

5       A.   That's correct.

6       Q.   And you had held that rank since, was it, 2013 or 2012  
7           when you joined Police Scotland?

8       A.   So I was the Deputy Chief Constable in Lothian and  
9           Borders from 2010 and then Deputy Chief Constable in  
10          Police Scotland from its inception, yes.

11      Q.   Thank you.  But in the time that you were within  
12          Police Scotland, you did not perform a response-type  
13          role and you were not present at the events on  
14          3 May 2015?

15      A.   No, I wasn't, no.

16      Q.   Thank you.  And I think you said in your Inquiry  
17          statement that since your retirement you have not had  
18          any contact with your former colleagues from  
19          Police Scotland?

20      A.   No, and that's really just to make the point that my  
21          perspectives and my opinions are kind of rooted in  
22          things as they were in 2015, so I haven't had that  
23          contact so I have no kind of perspective and knowledge  
24          about the organisation now.

25      Q.   Thank you.  Let's turn to your involvement with

## Transcript of the Sheku Bayoh Inquiry

1           the Inquiry. You will be aware, if you've watched any  
2           of the evidence, that there is a blue folder sitting in  
3           front of you on the desk and that blue folder, please  
4           open it up, it's got your documents in it. You should  
5           have a hard copy of your statement which I'm going to  
6           turn to.

7           A. Yes.

8           Q. Now, as I go through your evidence today, you will see  
9           perhaps paragraphs of your statement brought up on the  
10          screen in front of you and I'll refer to that, I may  
11          read them out and then I'll ask you questions. But if  
12          you are the sort of person that prefers a hard copy, you  
13          have got the hard copy in front of you.

14          A. Okay. Thank you.

15          Q. Feel free to use that hard copy in any way you wish that  
16          would assist you and if -- when going through your  
17          evidence today, if there's anything we don't have that  
18          you think would be particularly useful, please let me  
19          know and I'll see if I can get it at the break.

20          A. Okay. Yes.

21          Q. Let's look at your Inquiry statement, SBPI 00531. And  
22          you'll hopefully recognise this. It was taken on  
23          29 January 2024 and if we can look at the final page,  
24          I think there's 55 pages, if we look at the final page.  
25          Now, we will hopefully see an area where there is --

## Transcript of the Sheku Bayoh Inquiry

1           thank you. There we are. It says "signature of  
2           witness", now, on the screen, this version is redacted,  
3           so your signature cannot be seen and we see it was  
4           signed on 15 April 2024, but am I right in saying your  
5           hard copy and hopefully you recall signing the pages of  
6           your statement?

7           A. I do, yes.

8           Q. Thanks. And if we look at the last paragraph, 174 which  
9           is on the screen, it states:

10                   "I believe the facts stated in this witness  
11           statement are true. I understand that this statement  
12           may form part of the evidence before the Inquiry and be  
13           published on the Inquiry's website."

14                   Now, before I move on and ask you to confirm that,  
15           I understand there are some elements of your statement  
16           you would like to correct having reflected on it and  
17           reread it for today; is that correct?

18           A. That's correct, yes.

19           Q. Could we look at paragraph 44. I will be coming back to  
20           these paragraphs as part of the examination, but if we  
21           can look at paragraph 44 this relates to -- 44, please.  
22           And you'll see this is where you talk about a case that  
23           you recall involving a man called Michael Menson and it  
24           involved his death. Now you wish to make a correction  
25           to this paragraph?

## Transcript of the Sheku Bayoh Inquiry

1       A. I do, please. It doesn't change the context or the  
2       reason that I've included it in my statement, but just  
3       factually in terms of the last sentence and the outcome  
4       what actually happened was two of the perpetrators were  
5       arrested and convicted in the United Kingdom, third  
6       perpetrator was traced to Cyprus, there was no  
7       extradition treaty and UK officers negotiated with  
8       Cyprus authorities to have the man charged and  
9       prosecuted under local legislation and he was convicted  
10      and imprisoned in particular Cyprus, so factually I'm  
11      inaccurate in that sentence.

12     Q. But subject to that correction, are you content with  
13      paragraph 44?

14     A. Yes.

15     Q. Thank you. And then I believe there's paragraph 94, you  
16      would like to say something about this. And this  
17      relates to a comment you have made in relation to the  
18      opening statement by Police Scotland, here we are, and  
19      you mention the opening statement of the Chief Constable  
20      who was a core participant at this Inquiry and I believe  
21      you wish to make a slight revision to this paragraph; is  
22      that right?

23     A. Yes, I do and this is simply an error on my part. I  
24      have made the statement that there was no mention of the  
25      term "institutional racism" in the opening statement of

## Transcript of the Sheku Bayoh Inquiry

1           the Chief Constable. I have now reread it and there is  
2           a mention of it so --

3       Q. You wish to correct that?

4       A. I wish to correct it, yes.

5       Q. Thank you. And then finally paragraph 51, if we can  
6           move to that.

7       A. Yes, thank you, and this is not an error, but I think  
8           I can improve understanding of what I have written so I  
9           was asked the question about the percentage of  
10          Scotland's total population from ethnic minority groups.  
11          I quoted here the figure something less than 1 per cent.  
12          The less than 1 per cent refers to census data relating  
13          to black African and black British respondents, people  
14          who self-identified that way. The actual number of --  
15          the actual percentage of minority ethnic respondents was  
16          in the region of 4 per cent, I think, so when I compare  
17          it with 60 per cent of the population in the Borough of  
18          Newham, the real comparison is with the 4 per cent not  
19          with the something less than 1 per cent.

20       Q. Thank you. So again, subject to that revisal, can we go  
21          back to paragraph 174 which is the final paragraph of  
22          your statement, and I read this a moment ago, that you  
23          believed the facts stated in the witness statement were  
24          true and you understand this statement may form part of  
25          the evidence before the Inquiry and be published on the

## Transcript of the Sheku Bayoh Inquiry

1 Inquiry's website.

2 So subject to those three revisals, are you now  
3 content that the facts stated by you in the witness  
4 statement are true and that they're correct?

5 A. I am.

6 Q. Thank you. And you did understand when you signed it  
7 that this would form part of the evidence available to  
8 the Chair and it will be published on the Inquiry's  
9 website after you have completed your evidence?

10 A. I did.

11 Q. Thank you. I would like to begin, first of all, with  
12 looking at your experience with the discipline system  
13 and misconduct system in Police Scotland. Could we look  
14 at two paragraphs, please, of your Inquiry statement, 12  
15 and 13. Let's look at 12 first. Here we are:

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 and the  
23 work continued through to the formation of  
24 Police Scotland."

25 And if we can look at 13:

## Transcript of the Sheku Bayoh Inquiry

1           "The statutory role for the deputy is running the  
2           discipline system. I was responsible for conduct of the  
3           force. The start of every day for me was a briefing  
4           from my professional standards team on current cases,  
5           new cases, and I was required to chair panels,  
6           particularly about poorly performing probationary  
7           officers, deciding whether they stayed with the service  
8           or whether they didn't. At that level, you have a high  
9           degree of discretionary time. I chose to invest a lot  
10          of mine into the equality and diversity work and to  
11          engaging with various groups and opinion formers out in  
12          the community."

13           We have heard evidence about the disproportionate  
14          impact of the discipline system or the conduct system on  
15          black and minority ethnic officers and I am interested  
16          in whether you had any views on whether you considered  
17          those officers to be over-disciplined?

18          A. Well, it's from my experience in the Metropolitan Police  
19          Service, I would say an unequivocal, yes, and whilst  
20          I don't have it at my fingertips, the data would have  
21          supported that too. I'm afraid that I can't say from  
22          data that he was available to me, because I don't  
23          remember any being available to me, whether or not that  
24          was the case in Lothian and Borders.

25          Q. Right.

## Transcript of the Sheku Bayoh Inquiry

1       A. Sorry, just to add, my response to that based on  
2       anecdotal evidence, ie conversations with officers and  
3       particularly officers from minority communities, is that  
4       they certainly had a perception that that was the case  
5       and I think -- I think there's a sense in which I am not  
6       the best person to ask because much of the -- much of  
7       the differential treatment I think occurred outside of  
8       the formal discipline process. So within the grievance  
9       process, within informal processes that didn't get to  
10      grievance, my experience and my recollection of the  
11      accounts of others is that those were the places where  
12      things were most keenly felt in terms of differential  
13      treatment, if that makes sense.

14     Q. Thank you, yes. We've heard evidence from a  
15     Paul Castledine who has given evidence to the Inquiry  
16     and at one time he was the Chair of SEMPER.

17     A. Right.

18     Q. And his evidence was:

19             "I think that the statistic came out some years  
20     before I started was that a minority ethnic police  
21     officer was three times more likely to be interviewed by  
22     their colleagues than in a white officer in connection  
23     with professional standards. That was sometimes just  
24     purely because they looked at it as it's really  
25     important that we do this right, because this person is

## Transcript of the Sheku Bayoh Inquiry

1 from a minority background and it was quite shocking to  
2 me."

3 In terms of that evidence from Mr Castledine, would  
4 that accord with your own experiences?

5 A. Yes, it would. I think there was a -- we may come on  
6 to. I did some work -- I was tasked whilst in the Met  
7 by Commissioner to have a look at something in the  
8 region of 2023 ongoing grievances and employment  
9 tribunals and to try and resolve them. They had been  
10 ongoing for I think the criteria was 18 months or longer  
11 and having the opportunity to sit down with that many  
12 officers kind of within a very compressed period of time  
13 and listen to the stories, what -- sorry, the accounts,  
14 one of the things that became -- became very clear was  
15 that it was a common experience and it was often to do  
16 with the management of performance, so the individual  
17 officer's performance, and the accounts were very  
18 consistent in that rather than where they felt a white  
19 colleague would be maybe taken to one side, had a word  
20 with, given a kind of personal target for the next month  
21 or so, because -- because they were minority ethnic  
22 officers there was a trepidation from frontline  
23 supervisors about engaging them in that way, feeling  
24 that they needed to revert to formal process from the  
25 outset and that had -- it had a way of just snowballing.

## Transcript of the Sheku Bayoh Inquiry

1           So a sergeant would fail to deal with a performance  
2           issue from an individual, an individual would then  
3           potentially go to a formal process, the individual would  
4           ask why formal process when others not and we're already  
5           at the stage where that officer is difficult so -- and I  
6           characterise this oversimply, but what would happen then  
7           is the sergeant would say, this could be tricky, I had  
8           better refer this to the inspector. So the inspector  
9           would get involved and then quite often in that range of  
10          cases that I was dealing with, the subject officer is  
11          now feeling even more kind of differentially treated  
12          because why is the inspector involved in this and so the  
13          thing -- the tension and the thing would escalate so  
14          that the inspector would then go to the chief inspector.  
15          And then because the chief inspector was involved the  
16          chief inspector would go and speak to the organisation's  
17          lawyers just to make sure they were doing at the right  
18          thing and once you have got a lawyer -- forgive me --  
19          once you have got a lawyer on one side, then the person  
20          on the other side feels they need to engage with  
21          professional advice and you suddenly find yourself in a  
22          position where two years later you're stuck in grievance  
23          process or an employment tribunal process where there  
24          seems no way through.

25                 And when you deconstruct it and take it back to

## Transcript of the Sheku Bayoh Inquiry

1           where it started, you think how on earth did we ever get  
2           here and I saw that -- I saw that, as I say, it was  
3           either everyone I spoke to had got into a room together  
4           and agreed that that was their story or they were  
5           telling the truth, because it came from so many  
6           different individuals as part of the account of how the  
7           organisation seemed -- just seemed incapable of adopting  
8           a kind of person-centred approach to resolving issues in  
9           the workplace. So I think that's a long answer but --

10          Q. That's helpful, thank you. When was this that you were  
11          asked to deal with 20 or 23 employment tribunal issues?

12          A. So this would have been in I think 2004.

13          Q. Right.

14          A. And the reason -- well, I can locate it, because I had  
15          not long gone to the Met and it was at the time of the  
16          Morris Inquiry. So there was a public inquiry being led  
17          by I think it was Sir Bill Morris at the time into the  
18          internal equality and diversity issues in the Met,  
19          particularly around employment. And so that inquiry was  
20          running and, at the risk of sounding cynical, I think  
21          the Met identified a need to clear its books as best it  
22          could, because these were all issues and many of these  
23          staff and officers were potentially giving evidence to  
24          the Morris Inquiry, so it was around that time, 2004,  
25          and I think the whole process -- the whole process

## Transcript of the Sheku Bayoh Inquiry

1           probably occupied significant amounts of my time for the  
2           best part of a year.

3       Q.   Right.  And you talked about the sergeant and  
4           trepidation.  Do you -- did you understand what was the  
5           cause of that trepidation?  If an officer had a  
6           performance issue, why there was trepidation about a  
7           line manager dealing with that?

8       A.   If it was a black or minority ethnic officer?

9       Q.   Yes.

10      A.   I suspect that's the answer.  I mean I think -- I think  
11           that there would have been a perception, certainly at  
12           that time, that if they got the process wrong or if they  
13           said the wrong thing or they were perceived as being  
14           overbearing that the officer would go and speak to a  
15           staff support association, they would get involved, and  
16           then it would be the supervisor then who kind of ends up  
17           taking the rap for --

18      Q.   Right.

19      A.   -- that whole set of circumstances.  So I think it just  
20           without -- it sounds like I'm oversimplifying it and  
21           kind of exaggerating it, but I think there was a  
22           perceived and, obviously, it's not everyone, but in  
23           generic terms a perceived heightened level of personal  
24           risk about engaging in a contrary process with a black  
25           or minority ethnic officer and probably women and

## Transcript of the Sheku Bayoh Inquiry

1           probably gay officers.

2           Q. Thank you. And you said either everyone got together to  
3           tell a story, but presumably there was no suggestion  
4           that all of the individual subjects were doing that?

5           A. No, no, no.

6           Q. We've also heard evidence from -- sorry, we also have an  
7           Inquiry statement from a Sandra Delandes-Clark and we  
8           hope to hear evidence from her in the future in this  
9           hearing and her Inquiry statement talks -- well, she was  
10          asked about whether black and minority ethnic officers  
11          and staff faced being over-disciplined when they were  
12          the subject of a complaint as compared to a white  
13          colleague in a similar or equivalent position. And her  
14          answer was:

15                 "There is a widespread belief that like BME officers  
16                 and staff in England and Wales, BME employees in  
17                 Scotland are over-disciplined. However, as race and  
18                 ethnicity of the subjects of complaints is not recorded  
19                 by the Professional Standards Department, we cannot  
20                 validate or refute that claim."

21                 Would that be consistent with your own impression  
22                 that there is a lack of data or there was a lack of data  
23                 at that time?

24          A. Yes.

25          Q. But also that there was this belief that officers were

## Transcript of the Sheku Bayoh Inquiry

- 1 over-disciplined if they were black or ethnic minority?
- 2 A. Yes, I would say from my time at Lothian and Borders and  
3 probably Police Scotland that that was certainly true.  
4 I mean I think another factor, if I may, that bears on  
5 it is on the visibility of this as an issue is there are  
6 simply so few officers from minority ethnic communities  
7 in policing or there were in policing in Scotland, but  
8 it wasn't like you could physically see people coming  
9 through the process so there could easily be  
10 overrepresented, but I think the numbers were less than  
11 1 per cent of the service in certainly in  
12 Police Scotland, I can't imagine it was any different in  
13 Lothian and Borders, and so whereas -- again, forgive me  
14 for keep going back to the Met -- whereas in the Met the  
15 actual physical number of officers who would come and  
16 speak to you or who would talk about the issue was much  
17 greater than it would be in a force like Lothian and  
18 Borders, which had 2,700 officers as opposed to the  
19 30-something thousand that were in the Met. So it's  
20 just not in your consciousness in quite the same way,  
21 does that --
- 22 Q. Because of the total numbers?
- 23 A. Because the absolute numbers are so much smaller.
- 24 Q. Yes. And in the absence of data, it's difficult to  
25 assess percentages or disproportionality?

## Transcript of the Sheku Bayoh Inquiry

1       A. Yes, I mean -- yes, the absence of data is, when you  
2       look back on it, astonishing but, yes.

3       Q. And in her Inquiry statement Ms Deslandes-Clark also  
4       says:

5               "BME officers and staff also believe that their  
6       ethnic difference does attract more scrutiny from  
7       supervisors and colleagues. That could be due to  
8       stereotyping, unfamiliarity or ignorance. It's been  
9       likened to the proverbial O living in an X world, where  
10      O is always under the spotlight and everything he or she  
11      does is over-analysed. This can often lead to them  
12      being reprimanded more frequently than their white  
13      colleagues."

14        Again, would you have any comments to make about  
15       that?

16      A. I -- I would take Sandra's evidence on that above mine.  
17      I don't have the lived experience of being a minority  
18      ethnic officer. I can report to you that officers would  
19      relay that to me at times, but I mean I would -- I have  
20      worked with Sandra in the past and I would take Sandra's  
21      evidence on that.

22      Q. Would that be akin to your own experiences in your work  
23      with Lothian and Borders, that black and ethnic minority  
24      officers believe that their ethnic difference does  
25      attract more scrutiny?

## Transcript of the Sheku Bayoh Inquiry

1 A. It was a conversation I had on a number of occasions  
2 with black officers in the force, yes.

3 Q. Thank you. I would like to move on to your role in the  
4 Met, if I may. And we said earlier that you were there  
5 between 2003 and 2010?

6 A. Yes.

7 Q. Could we look at paragraph 7, please, of your Inquiry  
8 statement. Here we are:

9 "My roles with the Met included the following:  
10 Commander Diversity Directorate responsible for racial  
11 and violent crime task force; hate crime; domestic  
12 violence, honour violence and forced marriage (national  
13 responsibility); policy on rape and sexual offences;  
14 recruitment and retention initiatives for minority  
15 communities; strategic independent advice; family  
16 liaison policy and training; strategic engagement with  
17 staff support associations."

18 I would like to look through the different elements.  
19 First of all, staff support associations, you have  
20 mentioned staff support associations. Who were these  
21 staff support associations in the Met?

22 A. Gosh.

23 Q. Were they the equivalent of SEMPER?

24 A. I won't remember them all. There were around 20  
25 different ones I think by the time I left. The largest

## Transcript of the Sheku Bayoh Inquiry

1           and most established and most active would have been the  
2           Metropolitan Police Black Police Association, which was  
3           a branch of the National Black Police Association and we  
4           had -- so the Met had its own branches of the  
5           Gay Police Association, we had a  
6           Turkish Police Association, we had the British  
7           Association of Women Police. There were around 20  
8           different associations, so I think --  
9           Muslim Police Association -- and I think it's right to  
10          say that SEMPER -- SEMPER represents a slightly wider  
11          group of officers than each of those did in its own  
12          right.

13         Q. All right. And would they cover what we would now refer  
14          to as protected characteristics?

15         A. Yes.

16         Q. When you were in the Metropolitan Police Service, you  
17          have said you were the commander of the Diversity  
18          Directorate and you talk about a number of aspects to do  
19          with -- obviously, we're interested in race.

20         A. Yes.

21         Q. Could you help the Chair understand what your role  
22          involved?

23         A. Yes, so the Diversity Directorate -- I have to get my  
24          history right here. The Diversity Directorate grew of  
25          the Met's response primarily to the Macpherson Inquiry,

## Transcript of the Sheku Bayoh Inquiry

1           so that was happening I think I'm right in 2008 --  
2           sorry -- 1998, 1999.

3           Q. We have heard the report came out in 1999?

4           A. Right. So during that Inquiry, and based on some of the  
5           issues that were coming out of it, the Metropolitan  
6           Police Commander John Grieve others established what  
7           became known as the Racial and Violent Crime Task Force  
8           and the Racial and Violent Crime Task Force is  
9           referenced in Macpherson's report and is cited as -- is  
10          cited as a positive, one of the very few in there, for  
11          the Met emerging from the discussions that were taking  
12          place at the time.

13                 The Racial and Violent Crime Task Force was  
14           essentially -- essentially highly competent detectives  
15           who began I think initially to reinvestigate some of the  
16           signal hate crimes that had occurred so obviously racist  
17           murder of Stephen Lawrence, murder of Michael Menson,  
18           death of Roger Sylvester and I think the death of  
19           Ricky Reel, I think they were the cases. And what they  
20           did was try to take innovative approaches to these  
21           reinvestigations, so very much based on a kind of  
22           proactive approach to intelligence and intelligence  
23           gathering, very much based on seeking external views and  
24           challenge to the way in which inquiries were being  
25           undertaken. Crucially, and I can go back into the

## Transcript of the Sheku Bayoh Inquiry

1 history slightly if you need me to, but crucially picked  
2 up the idea of family liaison officers from Avon and  
3 Somerset, where I think it had kind of originated and  
4 took as one of their mottos the learning that says:

5 "An issue for the family is an issue for us."

6 So started to talk about families as being experts  
7 as part of the investigation, because they are expert --  
8 who better knows -- so if you're talking about homicide,  
9 who better knows the victim's, who better knows the  
10 victim's life circumstances, loves, fears, hates, all  
11 the rest of it, so actually bringing families in to  
12 these inquiries as an expert part of the investigation.  
13 And this is where a lot of the critical incident  
14 management thinking came from, which, again, we can talk  
15 about later.

16 So the Racial and Violent Crime Task Force  
17 established itself during the period of the  
18 Macpherson Inquiry and because of the nature -- because  
19 it tried to take this kind of inclusive view and  
20 innovative view about how it investigated things, it  
21 inevitably kind of attracted other responsibilities, so,  
22 for example, I list hate crime. So the unit kind of  
23 took on policy responsibility for the Met's response to  
24 hate crime. Allied with that, these other things that  
25 we see here, domestic violence.

## Transcript of the Sheku Bayoh Inquiry

1           So over a period of time and by the time I got to  
2           the Met in 2003, so we're now four, five years later,  
3           the Racial and Violent Crime Task Force was part of the  
4           Diversity Directorate. So Racial and Violent Crime Task  
5           Force, when I took it on, was two fully capable murder  
6           teams who took their place in the on-call murder team  
7           roster for the whole organisation, but their particular  
8           focus was on responding to hate-motivated serious  
9           assaults and homicides.

10          But on top of the Racial and Violent Crime Task  
11          force had attracted all these other issues, because  
12          I guess it had become -- because of the particular  
13          people involved at the time, it had become a centre of  
14          excellence and centre of kind of intellectual property  
15          in the Met for issues around equality, diversity and,  
16          crucially, and I think where, you know, my reflection on  
17          it, and stop me if I'm wandering off, but my reflections  
18          on it crucially where they achieved a strategic success  
19          was that the first time I think the service had really  
20          begun to understand that diversity and equality are not  
21          part of the HR function and a course you go on, but  
22          they're actually an operating philosophy which sits  
23          behind successful policing outcomes.

24          So if you want to be the best murder detective that  
25          the Met has got, you have to understand these issues and

## Transcript of the Sheku Bayoh Inquiry

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

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

22          And then strategic engagement with staff support  
23          associations, because, again, one of the issues around  
24          the staff support associations was understanding the  
25          multiplier effect that they could bring to operational

## Transcript of the Sheku Bayoh Inquiry

1           effectiveness. So what I mean by that is and probably  
2           exemplify it by the way that the structure went. So  
3           there was set up a thing called -- get it right -- the  
4           Cultural Resources Unit and the idea behind this was --  
5           and it wasn't just for minority ethnic staff, but the  
6           idea was if you had -- as an individual, you believed  
7           that you had something, some personal knowledge, some  
8           personal experience that you could offer to the  
9           organisation to be used in circumstances where we needed  
10          to access expertise about something, that you basically  
11          went on an on-call list and put yourself on the  
12          register. So you could for example -- no -- I won't do  
13          that.

14                 So let's say you have grown up -- you're an officer  
15          from a Sikh background and you want -- you think that  
16          that's an asset to the organisation, that knowledge,  
17          that experience, that's an asset to the organisation,  
18          and the organisation wasn't using that. So the idea was  
19          that through the staff support associations and into  
20          this Cultural Resources Unit that you could actually --  
21          then let's say an incident happened within the Sikh  
22          community and that night, within an hour of the senior  
23          investigating officer attending, they wanted someone  
24          they could talk to about potential issues in the  
25          community, about just to broaden their perspective on

## Transcript of the Sheku Bayoh Inquiry

1           what they were dealing with, then you would find someone  
2           on call, a police officer who could be there  
3           straightaway, and who could provide that advice.

4           So but -- as I say, it wasn't just about black and  
5           minority ethnic officers, because the example I always  
6           used when I was talking about it was the people like me  
7           who came from St Albans in Hertfordshire who grew up in  
8           a very strict Baptist family and whose dad was Chair of  
9           the Rotary Club, now maybe an incident happened in a  
10          Rotary Club in Hertfordshire and the Met needed  
11          something or within the Baptist community. So it didn't  
12          matter that I was a white officer, but potentially I had  
13          some life experience and some knowledge that could then  
14          be applied and be useful to the Met in terms delivering  
15          effective investigations.

16          So the staff support associations that was one way  
17          of kind of effectively, I think, engaging them and  
18          making their -- role because all of us who are/were  
19          police officers most want to do the best we can for our  
20          communities, we want to deliver safer increased  
21          wellbeing in communities. And staff support  
22          associations are not just about representing their  
23          members when the grievance goes wrong, they actually  
24          have an operational benefit to bring into the policing  
25          environment and if we fail to use that, then we're just

## Transcript of the Sheku Bayoh Inquiry

1           wasting a massive resource and so -- anyway, so the  
2           Diversity Directorate kind of in a strange way 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

## Transcript of the Sheku Bayoh Inquiry

1           and the subject, the deceased, was black --

2           A. Yes.

3           Q. -- would it be one of these teams with their -- you said  
4           it was a centre of excellence, they had experience,  
5           would it be one of them that would priorities that  
6           particular death?

7           A. The answer to that in my time is probably not, not  
8           necessarily. It would -- the -- not necessarily. So  
9           I'm thinking of the investigation into the murder of  
10          Damilola Taylor.

11          Q. Right.

12          A. Which was obviously a very high-profile murder of a  
13          young black man and that investigation was carried out  
14          by the mainstream murder command at the Met. So I think  
15          in its early days, probably before my time, the answer  
16          is more likely to have been, yes. During -- certainly  
17          when I arrived one of the teams was -- so I was the gold  
18          commander for the investigation that preceded the second  
19          Inquest into the New Cross fire, so New Cross Fire in  
20          1981, 14 black young people killed, and it went to a  
21          second Inquest in 2014 -- 2004. And we effectively  
22          reinvestigated that whole set of circumstances. So  
23          certainly of those teams was being that.

24                 I would think by 2004, 2005, they probably would  
25          have got involved -- they probably would have been

## Transcript of the Sheku Bayoh Inquiry

1           called in had it -- my language is going to be really  
2           clumsy here. Had it been a homicide of someone from a  
3           minority community where it became clear that the police  
4           had got -- had already got the response to the family,  
5           to the community wrong, if that makes sense?

6           Q. Yes.

7           A. Probably at the risk of going on too long, just to say  
8           that in 2006, 2005, my last year, my last period in the  
9           Diversity Directorate, I conducted a pretty significant  
10          reform of that function and for a number of reasons  
11          those murder teams from the Racial and Violent Crime  
12          Task Force got let's call it mainstreamed into the  
13          normal murder command operations of the Met.

14          Q. And did that then embed their excellence and their  
15          experience into a wider group of murder teams?

16          A. It was a bit of a two-way process. One of the reasons  
17          for doing that the mainstream homicide commander of  
18          the Met was actually getting better at it than us -- us,  
19          the task force, because they had a higher volume of --  
20          higher volume of cases to deal with. And also, you  
21          know, so much of this is about the leadership and the  
22          senior officers and the senior officers in the murder  
23          command by that time, as I say, they had dealt with  
24          Damilola and a number of other cases, and there was a  
25          real -- there was a real commitment to the principles of

## Transcript of the Sheku Bayoh Inquiry

1 critical incident management, a real engagement with  
2 independent advice, strategic independent advice, a  
3 real -- a real understanding of the -- the importance,  
4 you know -- and it always seems like a --

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

## Transcript of the Sheku Bayoh Inquiry

1 Q. That's very helpful. You have talked earlier today  
2 about the importance of bringing families into the  
3 investigation and I think you described those as experts  
4 who better knows the victim's circumstances?

5 A. Sure.

6 Q. So you can see benefits to an investigation to be  
7 engaging with the families in relation to that matter?

8 A. Absolutely fundamental, absolutely fundamental. I  
9 have -- over the course of my service I have had the  
10 privilege of working with -- doing quite a lot of work  
11 with Neville Lawrence, with the families of the New  
12 Cross Fire victims, I led the UK family liaison response  
13 to the British victims of the tsunami in 2004/2005.

14 Q. In Thailand?

15 A. In Thailand and I established and ran for the first  
16 three weeks the, I think it was the first in the UK,  
17 what we then called the Family Assistance Centre in the  
18 immediate aftermath of the London bombings in 2005,  
19 which was a one-stop shop basically for families and  
20 anyone else affected to come and access the services  
21 they required and others that I have forgotten, but  
22 I had --

23 I suppose the point I'm trying to make is that  
24 I couldn't conceive now of a successful homicide  
25 investigation which does not in some way or another seek

## Transcript of the Sheku Bayoh Inquiry

1 to work alongside the family. Now, that makes it sound  
2 really easy and sometimes it's very complicated, but it  
3 seems to me that any investigating officer that doesn't  
4 regard the family as, you know, on pretty much near the  
5 top of their list of resources is not thinking through  
6 the whole picture and certainly that would be my  
7 experience and, you know, it's, yes --

8 Q. All right. You mentioned a Family Assistance Centre?

9 A. Yes.

10 Q. Could you help us understand what that was?

11 A. Yes. I can do it fairly briefly. So you obviously  
12 recall the bombs in July 2005, I think there were 56  
13 victims, and essentially what the Family Assistance  
14 Centre did, and it was modeled on what was done in the  
15 immediate aftermath of 9/11. So in one single building  
16 we essentially collocated all the different services  
17 that a victim, victim's family, anyone affected by those  
18 incidents could access in a single place.

19 So rather than having to go somewhere for a bit of  
20 legal advice and somewhere for some counselling and  
21 somewhere else to see the family liaison officer and  
22 somewhere else to get an intelligence update from the  
23 SO, we put all those services in a single building.  
24 Now, because of the kind of exigencies of everything  
25 that was going on, I think we opened it -- it was

## Transcript of the Sheku Bayoh Inquiry

1           day two or day three, but to start with it was built we  
2           built it in a gym that the local authority made  
3           available to us and it was pretty make do and mend but  
4           after a few days we were able to move it to the Royal  
5           Horticultural Hall, so a massive public space and Ikea  
6           came in and built the inside of it, so it was a really  
7           spectacular kind of facility for people.

8           But the idea was that actually we wrap our services  
9           around the family, rather than saying to the family you  
10          go out and access it from each individual agency. And  
11          it was also the centre of -- you know, it was just  
12          somewhere as well -- you know, a cafe, somewhere people  
13          could come and could meet and talk to other people who  
14          were sharing some of that experience, so it was a  
15          remarkable experience being part of that.

16         Q. Thank you. I would like to move on, please, and ask you  
17          about your role in Lothian and Borders Police and can we  
18          look at paragraph 12 again, please. We touched on this  
19          earlier and it does mention Simon San.

20         A. Yes.

21         Q. Paragraph 12:

22                 "The entire time I worked with Lothian and Borders  
23                 Police I was in the role of DCC. My work with Lothian  
24                 and Borders Police included leading the response to  
25                 issues raised by the family following the racist murder

## Transcript of the Sheku Bayoh Inquiry

1 of Simon San. As a direct consequence of this work, I  
2 commissioned a project to develop a critical incident  
3 training programme for police across Scotland. The work  
4 continued through to the formation of Police Scotland."

5 And am I right in saying you were the ACC at the  
6 time of Simon San, you were an ACC with Lothian and  
7 Borders Police?

8 A. No, I was the deputy.

9 Q. Sorry, my mistake.

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

11 Q. My mistake, I apologise.

12 A. That's all right.

13 Q. I'll ask you about Simon San first and then, if I may,  
14 I'll turn to the critical incident training programme --

15 A. Yes.

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

17 A. Yes.

18 Q. Can you tell us then what role you took at that time in  
19 relation to the death of Simon San?

20 A. Yes, in two parts. The first was that on the morning  
21 that Simon died, I chaired the morning meeting of the  
22 four senior officers, so basically half a dozen of us  
23 would sit down every morning and just very quickly run  
24 through significant operational incidents. Simon's  
25 death obviously was top of the agenda that morning, and

## Transcript of the Sheku Bayoh Inquiry

1           we obviously talked about the case, the issue of -- the  
2           issue of racist motivation was talked about, the  
3           chief -- there was a chief officer who was overseeing  
4           the Inquiry who had been to visit the team, who was  
5           going back to visit the team later on that day. And he  
6           talked about how the team had -- the team had already  
7           been considering whether there was evidence of racist  
8           motivation. So my reflection -- and that was it, that  
9           was the kind of meeting and he would update when he had  
10          been out later that day.

11           I say rights from the outset, I got that wrong. I  
12          looked back on that and it would be a couple of reasons,  
13          neither of which are very compelling, about why, but  
14          what I should have done, and I wrote in my statement to  
15          the subsequent inquiry which I started, that what I  
16          should have done is I should have said to the team,  
17          well, do you know what, I perceive this to be a racist  
18          incident, therefore it is, so get on and record it and  
19          get on and deal with it as such. I didn't, to my  
20          regret.

21           Then the next role I had in relation to it was when  
22          I became aware that family were dissatisfied with the  
23          response they had had from us. A superintendent went  
24          out to visit them, and either took a statement or took a  
25          comprehensive note of their complaints. And he was an

## Transcript of the Sheku Bayoh Inquiry

1 officer who had worked tangentially with me in the Met --  
2 had nothing to do with why he went to see the family --  
3 but he came back and he recognised that what was  
4 unfolding was a critical incident, because kind of  
5 having spent time in the Met he was familiar with that  
6 language and what that meant so he -- eventually, he  
7 came to talk to me about those -- about the complaints  
8 and the dissatisfaction of the family and I don't know.  
9 I decided, I thought it through at some considerable  
10 length, and decided that what I didn't want to do was  
11 simply instigate a -- I'll call it a normal complaints  
12 and discipline inquiry into the family's complaints, but  
13 that this was a more seminal moment for the organisation  
14 and we needed (a) to make sure absolutely first and  
15 foremost that we put right the wrongs in terms of our  
16 response to the family and the investigation and,  
17 secondly, I was determined that we should -- we should  
18 deal with these issues in a way that exposed and  
19 maximised the learning and the potential for development  
20 in the organisation. So I appointed -- I appointed a  
21 superintendent, I think she was the superintendent,  
22 might have been a chief inspector. But anyway I  
23 appointed a superintendent to put together a team and  
24 left it to her how she wanted to structure that team,  
25 but to conduct under kind of my authority as

## Transcript of the Sheku Bayoh Inquiry

1 wide-ranging an inquiry into what had happened as it was  
2 possible to do.

3 I wanted -- because I was already aware -- I was  
4 already aware that I had a personal -- I had some  
5 personal learning to take out of what had happened, so  
6 it was important to me that that team treated me in the  
7 same way they treated all the other officers and at  
8 least I had some sort of kind of independent route for  
9 them.

10 So we bought in a man called Bill Griffiths who had  
11 been, because I think he had retired by then, who had  
12 been the Deputy Assistant Commissioner who had run the  
13 Met's homicide command, had been the gold commander,  
14 I think, for Damilola Taylor, massively experienced man,  
15 who had alongside John Grieve and other significant  
16 people -- had developed the Met's response to critical  
17 incident management, had trained, was head of the  
18 hostage negotiators for the Met, hugely kind of wise and  
19 experienced man. So we engaged him to work with that  
20 inquiry team as a sounding board as an independent  
21 advisor, so that they didn't feel they had to come to me  
22 to kind of take their guidance on where they should go.  
23 I wanted them to have the confidence that -- and they  
24 knew because it was Bill, they knew that he had my  
25 confidence to take that team where they needed to go in

## Transcript of the Sheku Bayoh Inquiry

1 terms of uncovering the truth of the Inquiry.

2 So I established the Inquiry under those sort of  
3 terms. I chaired -- I chaired the gold group, the kind  
4 of just kept -- kept an overall eye on the sort of  
5 strategic direction, and then when the report was  
6 completed, it was kind of formally submitted to me, I  
7 met with the family, and we discussed all the  
8 conclusions of the report, we discussed my options going  
9 forward in terms of what we did with it, and then I met  
10 with every single officer who had been touched by the  
11 report, met with them all individually and went through  
12 the report with them and tried to kind of establish the  
13 learning for us all.

14 And then once I had done that, the famous bit is I  
15 then apologised to the family publicly in a press  
16 conference so that was -- and then subsequently lots of  
17 things happened as a consequence of that, so that was my  
18 involvement.

19 Q. We have had heard some evidence about Operation Waymark?

20 A. Yes.

21 Q. And that was, as I understand it, the name of the  
22 Inquiry into the complaints raised by the San Family?

23 A. Yes.

24 Q. And there was a recognition after that inquiry that  
25 there had been a failure to identify the possibility of

## Transcript of the Sheku Bayoh Inquiry

1 a racist motive?

2 A. Yes, yes, I mean, yes. I mean there are -- there are a  
3 number of failures, the failure -- so the failure was to  
4 listen to the family, hear them tell us that it was a  
5 racist incident, and then conduct the inquiry in a way  
6 that was commensurate with finding the best possible  
7 evidence that related to racist motivation. So -- so  
8 the -- and I mentioned it earlier, the failure to  
9 record -- there's a kind of gap I think in terms of --  
10 and a palpable unwillingness I think in policing in  
11 Scotland in the time we're talking about to just get on  
12 and record it.

13 And I thought a lot about this and it becomes --  
14 there's something of a gap so the Crown Office and I'm  
15 not going to relitigate the case or make any comment  
16 about the Crown Office other than that we get ourselves  
17 into a position where we kind of in a default way regard  
18 the Crown Office as the arbiters of whether something  
19 has happened or not. So whereas in fact they're simply  
20 the arbiters of whether there's sufficient evidence at  
21 the right level to prove an allegation and those two  
22 things are fundamentally different. So we got ourselves  
23 into this kind of situation over Simon San, which I  
24 think just illustrates the point I'm trying to make  
25 so --

## Transcript of the Sheku Bayoh Inquiry

1           And I went on BBC2 on Newsnight and had like a  
2           terrible time, because trying to get me to explain how  
3           the police could say this is a racist incident and the  
4           Crown Office are saying it's in hospital a racist  
5           incident. And actually, we're talking a different  
6           language. So the police are saying the family believe  
7           it to be a racist incident so Macpherson says it's a  
8           racist incident and therefore, as a consequence, we  
9           pursue these lines of inquiry with vigour and energy and  
10          we apply our resources to that, because we need to know  
11          and we need to understand whatever and evidence is  
12          available. So we're saying it's a racist incident, but  
13          then the crown are saying there isn't any evidence it's  
14          a racist incident and it was Gordon Brewer kept asking  
15          me, what are you apologising for? Because we didn't  
16          listen to the family, we didn't record it. You won't  
17          find the evidence if you don't go and look for it. And  
18          the recording it as a racist incident in my mind is the  
19          absolute trigger that says now you go and look for that  
20          evidence. So if you don't record it, then we're back to  
21          pre Macpherson.

22          And the point of the definition in my understanding  
23          was to get away from the position where the senior  
24          investigating officer said, I've had a look, there's no  
25          evidence, it's not a racist incident. So the SIO, the

## Transcript of the Sheku Bayoh Inquiry

1           organisation decided whether it was a racist incident or  
2           not. And the purpose of Macpherson was saying, hang on  
3           a minute, it's not down to you, it's down to the victim,  
4           the family, any other person, listen, hear what you're  
5           being told and once you're told that by a family, then  
6           record it and do your duty as a consequence of recording  
7           it and there was a terrible muddle.

8           So again, based on my failure to do what I should  
9           have done in that initial meeting, in 2011, I think it  
10          was, Stewart -- forgive me -- the lad was killed at --  
11          Stuart Walker, he was killed at Cumnock and while the  
12          investigation have still ongoing and they hadn't  
13          detained anyone, and Stuart was gay and was well-known  
14          in the community, and I read about it in the papers and  
15          thought, well, that's got to be a homophobic incident  
16          and because I hadn't done it for Simon San, I rang  
17          Strathclyde Police and said, look, I am any other person  
18          and I believe it to be a homophobic incident, so please  
19          you have to record it and their --

20          This is not a story against anyone. I'm just trying  
21          to illustrate the reluctance. Their response  
22          eventually -- they obviously talked about it a lot --  
23          their response when they came back to me was, we  
24          recorded it as a homophobic incident, but we're not  
25          going to tell anyone. And it just sort of captured --

## Transcript of the Sheku Bayoh Inquiry

1           like they knew they had to, but there's this thing that  
2           once you do, then is it the media, is it -- what is it  
3           that we're afraid of that we are then because we have  
4           stated definitively. So I think police officers are --  
5           have found it difficult in the past to explain why you  
6           would record something as a racist incident and they've  
7           lacked the confidence to be able to say it can be a  
8           racist incident, because the family say so and it  
9           doesn't get prosecuted as one because the evidence  
10          required to that standard simply isn't there.

11                 But this is what I mean by -- so the Crown Office  
12          aren't the arbiters of what happened, because that  
13          doesn't mean it didn't happen. Because otherwise you  
14          would -- if you think about it in the context of rape  
15          and the conviction rate for rape across the  
16          United Kingdom, if it were true that the prosecuting  
17          authorities were the arbiters of what had happened, we  
18          would have to be saying that 80, 85 per cent of those  
19          rapes simply didn't happen and no one is ever saying  
20          that. What we're saying is we can't -- because of the  
21          issues of consent and all the rest, we can't get across  
22          that evidential line and it's why I always talk about  
23          the racist murder of Simon San, because I believe that  
24          it was. The Crown Office don't agree, but that's on a  
25          different basis.

## Transcript of the Sheku Bayoh Inquiry

1           And I think, if I may finish on, you know, that was  
2           ten years ago, ten, 12 years ago, and forgive me, I  
3           haven't listened to all the evidence, but I imagine you  
4           will have heard evidence by now about the recording of  
5           the death of Mr Bayoh as a racist incident, who did it,  
6           what they did it and what flowed from it being recorded  
7           as a racist incident, because clearly it is, otherwise  
8           we wouldn't be here. But hopefully that gives us a  
9           comparator that says, well, we've learned in the last  
10          decade because we have done it better this time.

11         Q. So to sum up, if I may --

12         A. Sorry, yes.

13         Q. -- the role of the police is different and distinct from  
14          the role of the Crown Office. And insofar as there is a  
15          difference between the ultimate outcome, that is because  
16          you're looking at separate things?

17         A. Yes.

18         Q. The crown are looking at whether there's sufficient  
19          admissible evidence to prosecute?

20         A. Yes, exactly.

21         Q. Whether there are reasonable prospects of securing a  
22          conviction, whether it's in the public interest?

23         A. Yes, exactly.

24         Q. Those are separate issues from the police saying where  
25          is the evidence here about this incident, this death,

## Transcript of the Sheku Bayoh Inquiry

1           and we should gather in all the evidence that we can,  
2           particularly in relation to evidence about racial  
3           motivation, but that's not assessing whether it's  
4           sufficient --

5        A.   No.

6        Q.   -- or admissible or --

7        A.   And forgive me, but may be one thing that the Inquiry  
8           could do in the end is assist the agencies involved with  
9           some kind of clarity about -- even if it's clarity about  
10          at the language that we use around it so that -- so that  
11          we as professionals can talk about it in a way that  
12          makes sense to the public.  Because as I say in the case  
13          of Simon San, I couldn't -- because I hadn't thought it  
14          through to that degree and I think it's a key factor in  
15          putting professional police officers off recording  
16          things as they should be recorded, because of the  
17          tension it sets up in your kind of conscious mind about,  
18          well, if I say it's that, how can they say it isn't?

19        Q.   Thank you.  So insofar as we have evidence available to  
20          the Inquiry from the former Lord Advocate at the time  
21          that on the evidence it was not racially aggravated,  
22          that is a separate issue for the crown, and this is  
23          within their remit, that doesn't impact on the officers?

24        A.   No, it doesn't, no.  The issue for the officers is did  
25          they look in all the right places.

## Transcript of the Sheku Bayoh Inquiry

1 Q. Thank you. Can I ask you to look at paragraph 126,  
2 please. And this mentions San but you follow on with  
3 another point I would like to discuss with you, 126,  
4 here we are:

5 "One of the issues arising out of the  
6 Simon San report was about people not being trained for  
7 the roles they were asked to undertake. My impression  
8 was that training was given a lower priority generally  
9 than it was in England, and that persisted into the  
10 early days of Police Scotland. I fully accept the  
11 context of reform and the pressures that put on the  
12 system. In particular, I think there was a lack of  
13 leadership training and the associated discussion of  
14 culture and diversity that is an integral part of  
15 leadership training."

16 Can I ask you first of all about this comment,  
17 "people were not being trained for the roles they were  
18 asked to undertake", can you explain the difficulty that  
19 arose in relation to that?

20 A. Yes, I mean very simply and I know that the  
21 Waymark Report is available to the Inquiry, I think --  
22 I'm pretty sure it was the senior investigating officer  
23 appointed to investigate Simon's murder hadn't attended  
24 the courses that he was required to attend and so he  
25 was -- I mean that was an organisational failure, not

## Transcript of the Sheku Bayoh Inquiry

1 his, putting him in that position.

2 So then some of the things that flowed from him  
3 trying to do the very best job he could probably would  
4 not have happened. I'm thinking about things that were  
5 said to the media. I'm thinking about the recording of  
6 decisions and things. Had he been procedural trained, I  
7 hope, and I would be reasonably confident that those  
8 things would have been done differently.

9 I'm also thinking, say more widely than just  
10 Simon San, I'm thinking of a particular -- make it a  
11 more general comment. There were occasions when I felt  
12 that senior officers were put in command roles in  
13 relation to, for example, firearms incidents, when they  
14 had been trained very specifically in terms of  
15 commanding a firearms incident, but not in some of the  
16 ancillary skills and professional knowledge that you  
17 might need and you might encounter as part of a firearms  
18 operation. So for example, there was a specific course  
19 on -- down in England and Wales on siege management, so  
20 managing where you've got a hostage situation or someone  
21 taken -- someone barricaded themselves in premises. And  
22 I can recall at least one incident where trained  
23 firearms commanders, because we deployed firearms  
24 officers to it, didn't appear to have the awareness that  
25 I would have expected about the range of options you

## Transcript of the Sheku Bayoh Inquiry

1           would be thinking about the contingencies you would put  
2           in place for managing a siege.

3           And I just don't think there was -- during that  
4           period, I just wasn't conscious of officers saying,  
5           well, I have now got to do that next module of my  
6           training, particularly senior officers. I think there  
7           was a sense I had that senior officers were expected by  
8           virtue of their seniority to understand how to do  
9           things, which perhaps hadn't existed quite the same in  
10          England.

11         Q. We've heard evidence in this Inquiry that certain  
12          officers who were in the role of, say, sergeant and  
13          inspector that day were acting sergeant or temporary  
14          roles; is that the type of scenario you're talking about  
15          where --

16         A. Sorry. On which day?

17         Q. On 3 May 2015 when Mr Bayoh died.

18         A. Yes.

19         Q. But officers on the ground that day were in acting roles  
20          or temporary roles and perhaps had not received all of  
21          the training courses that would normally go with someone  
22          who was formally promoted into that role; is that the  
23          type of situation that you're expressing?

24         A. Yes, that would certainly be a strong possibility,  
25          I would think, and, inevitably, if you're in an acting

## Transcript of the Sheku Bayoh Inquiry

1           role, you don't have the breadth of experience or the  
2           depth of experience that the substantive rank would have  
3           so, yes.

4       Q.   And that was the situation of the officer in charge of  
5           the Simon San investigation you said, he hadn't  
6           completed all the necessary courses?

7       A.   No, he hadn't done the course.  He was at the right  
8           rank, he was a Detective Chief Inspector, so it wasn't a  
9           question of rank, it was about had he done the  
10          qualifications.

11                And just going back to your last question about  
12           acting and temporary ranks, that sounded a bit -- my  
13           answer was overgeneralised, because there are people who  
14           will perform at acting and temporary ranks who have done  
15           the training, have got the breadth of experience and,  
16           you know, sometimes you find they're more cable than the  
17           people in substantive rank.  So it's not a general  
18           comment that if you're acting, you're not trained.  It's  
19           more probable that you won't have received the same  
20           amount of training, more probable that you won't have  
21           the depth of experience.  I wouldn't put it more  
22           strongly than that.

23       Q.   It would depend on the individual?

24       A.   Yes, exactly.

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



## Transcript of the Sheku Bayoh Inquiry

1           It felt to me at that point in the organisation that  
2           taking that approach was more likely to change people's  
3           thinking and behaviour than setting up an adversarial  
4           kind of discipline process where people would argue  
5           against their culpability in what was actually quite a  
6           complex and in places ambiguous situation so, no, there  
7           were none.

8           Q. So where there have been failings and they were  
9           recognised and there may have been individual failings,  
10          was it the case and generally from your own experience  
11          is the case that the views of the family about whether  
12          there should be disciplinary or conduct proceedings  
13          outweighed the desire of Police Scotland or the Lothian  
14          and Borders Police, as it was then, to deal with those  
15          issues in terms of the Regulations?

16          A. It's always a balance. In the particular case of  
17          Simon San, my position from the beginning of it was that  
18          I did not think, and this suggests that I presupposed  
19          what the outcome would be, but from what I knew at a  
20          point, I did not think the most valuable outcome in  
21          terms of learning development, operational competence,  
22          in terms of the family wanting something positive -- use  
23          that word advisedly -- but something "positive" to come  
24          from the Inquiry, it was never my view from the  
25          beginning that the right answer was going to be

## Transcript of the Sheku Bayoh Inquiry

1 misconduct proceedings.

2 Q. And why was it your view from the outset that the answer  
3 would never be misconduct proceedings?

4 A. Because my -- sounds ever so pompous, I don't mean it to  
5 sound that way -- my judgment of where the organisation  
6 was at the time in relation to these specific issues was  
7 that there was a lack of awareness, a lack of -- a lack  
8 of these issues being front and centre in people's minds  
9 during the response to operational incidents, that just  
10 that -- just that setting up -- as I say, setting up an  
11 adversarial process, where some people were blamed for  
12 getting it wrong, others wouldn't have been and it just  
13 seemed to me that that was going to mire the  
14 organisation in a whole load of bad feeling.

15 And because of the nature of what would have been  
16 the misconduct offences, no one was going to get sacked,  
17 the misconduct outcomes would have been, you know, at  
18 the level of advice and it just seemed -- it just seemed  
19 not to be in the best interests of anyone to head down  
20 that past, because everyone got advice anyway from me,  
21 and it generated a whole load of discussion in the  
22 organisation about the issues and about why I had taken  
23 the particular path I had taken and why we had  
24 investigated it any away way we had. Whereas I think we  
25 would have just got mired and we know from the history

## Transcript of the Sheku Bayoh Inquiry

1           of some of these things the organisation would have got  
2           bogged down in it for a long, long time and been  
3           focusing on the wrong things.

4       Q. Did it make a difference in your view that in the case of  
5       Simon San there had been a conviction, there had been  
6       pleas, there had been a conviction?

7       A. Yes, yes. I mean I think and I'll refresh my  
8       recollection of the report a couple of weeks ago and  
9       it's interesting it's a thing of its time in some way,  
10      but there is a whole paragraph in there about what a  
11      good investigation it was. And you know, it was, it was  
12      a good investigation in many ways, but it missed this  
13      vital element out.

14           I think if -- if there had not been a conviction or  
15      if there had not been a -- if there had not been  
16      charges, then that would have raised obviously more  
17      significant questions about the quality of the  
18      investigation, so it's a bit of a kind of if, if, if,  
19      but, yes, it made a difference in the sense that that  
20      wasn't an issue for us. We had kind of got the right  
21      people and the right people were going through the  
22      process.

23      Q. Right. Can I go back briefly to paragraph 12. You'll  
24      remember that I mentioned earlier paragraph 12 of your  
25      Inquiry statement, that I was going to come back to a

## Transcript of the Sheku Bayoh Inquiry

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

## Transcript of the Sheku Bayoh Inquiry

1 response is likely to have a significant impact on the  
2 confidence of the victim, the family or the community.

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

## Transcript of the Sheku Bayoh Inquiry

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

## Transcript of the Sheku Bayoh Inquiry

1 know now. So at this point, this is what I can see,  
2 this is what I know, so that you -- so in terms of  
3 someone going back to revisit the process you have  
4 got -- in your decision log you've got a kind of  
5 waypoint where you say, well, at that point I knew that.  
6 It turns out subsequently that you were wrong, but  
7 that's what I knew, that's what I was basing my decision  
8 on. So a much more comprehensive recording of thought  
9 process. Some people recording them, "at this point  
10 when this happened, I felt like this", so that you  
11 introduce the idea of your emotional response and how  
12 that impacts on your decision-making, but the idea is it  
13 is a much more comprehensive kind of record of your  
14 thinking.

15 So decision logs, independent advice and, again, the  
16 kind of basic principle here is that -- so still again  
17 we hear talk about and use of independent advisors as if  
18 their principal role is to represent the community from  
19 which they come and to be a conduit back and to come to  
20 the police and tell them about their community. That's  
21 one -- that's one element that you could use an  
22 independent advisor for, but in my view the more  
23 appropriate use of them is not as community  
24 representatives, but as people who come in who do not  
25 have your mindset as a police officer and challenge your

## Transcript of the Sheku Bayoh Inquiry

1 thinking. So it doesn't have to be that if you're  
2 dealing with the death of a black man, it doesn't mean  
3 that you have to have a black man as your independent  
4 advisor. Obviously, you don't have to have one  
5 independent advisor, but some of the best independent  
6 advisors I've come across are nothing to do with the  
7 community in which we're operating, but understand how  
8 to challenge our decision-making, they have an  
9 understanding of what being in the police for 25 years  
10 does to your way of think and way of operating and  
11 they're brought in and they challenge that.

12 The principles in critical incident management are  
13 that you bring them in as early as you possibly can and  
14 quite often what you find still, I'm talking 2015, is  
15 that the police would want to get the thing sort of  
16 sorted out a bit and get some boundaries around it  
17 before they invited an independent advisor in to have a  
18 look. Anyway, we could go back to that if you're  
19 interested.

20 So the principle of independent advice, the  
21 principle of using the resources within your  
22 organisation, we talked about cultural -- Community and  
23 Cultural Resources Unit, the staff support associations.  
24 I'm going to miss one but -- and the final one I can  
25 think of right now --yes, two more, one is importance of

## Transcript of the Sheku Bayoh Inquiry

1           learning. So from the outset of the incident you bear  
2           in mind the process that you're going to use to extract  
3           the learning from it as you go through. And the final  
4           one is the importance of understanding these definitions  
5           by which I mean racist incident, institutional racism,  
6           unconscious bias and the things that may have an impact  
7           on your decision-making.

8           So those are the principles that sit behind critical  
9           incident management. The single most important thing  
10          I would say about it is that it is not a prescription  
11          for -- so -- so there's not a standard operating  
12          procedure which says, here's a critical incident, if you  
13          tick off -- if you go through all these stages, you will  
14          have managed it properly. The idea behind it from its  
15          inception was that it created a state of mind and a way  
16          of thinking for senior officers to deal with complexity  
17          and ambiguity. So in your mind as the senior officer,  
18          who's in charge, what are the role, and you go, am I  
19          recording my decisions appropriately, have I got  
20          challenge coming into it. It's just about the  
21          principles of good operational management, but because  
22          it's the police we have to kind of constrain them in a  
23          kind of box that we can teach on a course, but it's  
24          really a state of mind.

25          And of course the one I missed, there you go, giving

## Transcript of the Sheku Bayoh Inquiry

1           myself away, so the other principle is the centrality of  
2           the family.

3       Q.   Right.

4       A.   And so it's a state of mind that we want to instill in  
5           officers all the way through the system.  So a gold  
6           commander can be a sergeant, it can be a Constable, it  
7           can be the chief constable, so the principles stretch  
8           themselves right across the organisation.

9       Q.   Thank you.  You talk about the significance of the  
10          Macpherson definition of institutional racism.  And I  
11          think in paragraph 122, if we can go to that, or perhaps  
12          we should look at the previous paragraphs just to give  
13          ourselves some context here.  Let's look at 120, first  
14          of all.  That's fine.

15                 "Discussion of institutional racism" and this is  
16                 critical incident management training, is it?

17       A.   Yes.

18       Q.   "I'm asked what sort of things were being raised during  
19           the discussion of institutional racism at the critical  
20           incident management training.  The training event  
21           started with an introduction about organisational  
22           cultures, structures and decision-making with a number  
23           of different models being presented and then the  
24           exercise began."

25       A.   Yes.

## Transcript of the Sheku Bayoh Inquiry

1 Q. "It's based on a scenario of a young Asian woman going  
2 missing. The participants in teams develop their plans  
3 and approaches to the information they have got in front  
4 of me. They write that information into decision logs  
5 along with the rationales for their decisions. We then  
6 come back into plenary and all those decisions and  
7 decision logs are look at in plenary and discussed."

8 So is it an interactive workshop-type scenario?

9 A. Yes, it runs over two days and there are a number of  
10 elements as the two days role through, yes.

11 Q. And 121:

12 "Institutional racism was raised as part of the  
13 initial introductory presentation and then in discussion  
14 on the second day. There is an actual point in one of  
15 the discussions on the second morning where I and the  
16 facilitator of the exercise knew that if no one else  
17 had, we would raise the issue of institutional racism  
18 and the facilitator would ask the question like, 'Does  
19 thin think that institutional racism as a concept has  
20 any bearing now?'"

21 And you talk about the sort of questions you would  
22 ask to promote that discussion?

23 A. Yes.

24 Q. And then if we can look at the next paragraph, 122:

25 "In the introductory presentation to the exercise

## Transcript of the Sheku Bayoh Inquiry

1 the definition of institutional racism from  
2 Macpherson Report was put on the screen. It was  
3 somewhat deconstructed to remind people about it and to  
4 put it in their minds as they participated in the  
5 exercise. The importance of the word 'unwitting' was  
6 highlighted, as was the way people defend themselves by  
7 say, 'well, we are unwitting'. You can only be  
8 'unwitting' once and once you know, then presumably you  
9 are witting and all the responsibilities that flow sit  
10 with the leader."

11 Could you expand on that a little?

12 A. Yes, so -- yes, so there has been a tendency in my  
13 experience over the years when people talk -- people  
14 inside the service talk about institutional racism and I  
15 think it's because of the dynamic about everything will  
16 think we're labeling them as racists. There has been a  
17 tendency to emphasise the bits that say "the collective  
18 failure of an organisation" and the word "unwitting" and  
19 at times that has sounded to me as if that is a way of  
20 saying, so it's not really your problem, because it's  
21 our collective failure and anyway it's unwitting.

22 I think, traveling into contentious territory now,  
23 but my view is you can't separate individuals out of the  
24 definition of institutional racism. Yes, it's got a  
25 systemic, a corporate institutional kind of element to

## Transcript of the Sheku Bayoh Inquiry

1           it, which is truly significant, but it can only exist if  
2           individuals in the organisation -- so if you think the  
3           definition can be detected in processes, attitudes,  
4           behaviours -- forgive me I'll get it in the wrong  
5           order -- based on stereotyping, dada, I'm sure the  
6           definition is on there somewhere, but those are things  
7           that people do, people behave, people have attitudes,  
8           organisations don't. So the whole kind of edifice of  
9           institutional racism has somewhere in it individual  
10          people and so the point that was being made was that you  
11          can't hide behind the word "unwitting", ie, well,  
12          I didn't know, I was unwitting. And it was John Grieve  
13          who introduced the idea that you can only be unwitting  
14          once and then once you know, well, you're outside the  
15          scope of that word.

16                 I mean I think I'm right in saying that in  
17          Macpherson he talks about "unwitting" can be caused  
18          by -- how has he describe it -- uncritical  
19          self-understanding I think is what he says can be a  
20          cause of the unwittingness and so that puts and the  
21          definition for me has always put a responsibility on  
22          individuals to ensure that they are critically  
23          self-understanding and the organisation can play a part  
24          any of that, of course it can, and there's -- you know,  
25          it is institutional racism, but every individual in the

## Transcript of the Sheku Bayoh Inquiry

1           organisation has to challenge themselves about the  
2           extent to which their behaviours and their attitudes and  
3           most often, most often, particularly in the data  
4           environment that, you know, we lived in back then, most  
5           often ignorance, you know, you simply -- you simply  
6           weren't aware of some of the disproportionate outcomes,  
7           you simply weren't aware of the gap, the gap between  
8           what police were saying and what communities were  
9           saying.

10                  Anyway so, yes, so we kind of got into that. And as  
11           I say, the main point is that you can't hide behind it's  
12           a collective failure of an organisation, because an  
13           organisation is made up of people. It has additional  
14           dynamics because it's an organisation, but in the end  
15           every single one of us has to be -- has to take our  
16           responsibility for what part we play in that.

17           Q. I think you mentioned the wording. If we look at  
18           paragraph 85 very briefly --

19           A. Yes.

20           Q. -- you do refer to the Macpherson definition and at the  
21           end of paragraph 58, there we are, you say:

22                  "I would say that the police service collectively  
23           has failed to provide appropriate and professional  
24           service to people over the years because of their  
25           colour, culture or ethnic origin. You see it detected

## Transcript of the Sheku Bayoh Inquiry

1           in processes, attitudes and behaviour, which amount to  
2           discrimination through unwitting prejudice, ignorance,  
3           thoughtlessness and ways of stereotyping."

4           So that was the wordings I think that you've quoted  
5           there.

6           A. Yes.

7           Q. And am I right in saying that as part of this course,  
8           which you prepared, you prepared PowerPoint  
9           presentations for use during the courses?

10          A. Yes.

11          Q. And I think you have provided the Inquiry with those and  
12          I don't -- there's a number of slides. I don't wish to  
13          go through those today, but perhaps we could refer to  
14          one of them, WIT 00111, and this is slide 30 out of 37,  
15          and it's simplicity(?), critical incident management and  
16          this slide is just an example of the sort of slides used  
17          to share information with participants?

18          A. Yes.

19          Q. And tell us what we see on this slide?

20          A. This deals with the "treat everyone the same approach".  
21          So you know, treating everyone the same doesn't lead to  
22          fair equitable outcomes and I think probably says this  
23          better than I will do it in the next ten minutes.

24          Q. So treating everyone the same, of which we have heard a  
25          number of witnesses speak, is to give everyone the same

## Transcript of the Sheku Bayoh Inquiry

1           box?

2           A. That's it.

3           Q. But only two out of the three can actually see the game?

4           A. That's it.

5           Q. If you treat everyone fairly, you give the smallest  
6           person two boxes, the middle-sized person one box, and  
7           the tallest person no boxes and they can all see the  
8           game?

9           A. Yes.

10          Q. And that's how to --

11          A. Exactly so.

12          Q. -- understand the difference?

13          A. Yes.

14          Q. Thank you. And with the other PowerPoints, there are a  
15          number of images that share other aspects of information  
16          and educational you wish to share with the  
17          participants --

18          A. That's right.

19          Q. Along these lines? Thank you.

20          A. Yes.

21          Q. Can we look at paragraph 55 now, please, of your Inquiry  
22          statement. Can we go to the top of it, please. Thank  
23          you:

24                 "One of my observations about policing in Scotland  
25                 after my first year or two in Lothian and Borders Police

## Transcript of the Sheku Bayoh Inquiry

1           was that it had a strong sense of its own competence.  
2           In some ways that's real positive. The downside of that  
3           was I think less of a sense of the need to engage with  
4           and listen to what minority communities were telling you  
5           about what kind of policing they wanted. This is why we  
6           want officers from every community in the police. It's  
7           because when you understand the community you are  
8           policing you don't have to engage in conflictual  
9           conversations all the time. So in places like Dumfries  
10          and Galloway, Northern was another example, people from  
11          the communities police the communities. That's the  
12          model that I think works best. It worked really well in  
13          those places, but they were fairly non-diverse. So I  
14          think the border between England and Scotland is not  
15          necessarily the dividing line. I think it's the  
16          difference between the type of communities that you  
17          actually police."

18                 I'm interested here in what you said about less  
19          engaging with minority communities and the best model is  
20          for people from the community to police the community.  
21          Can you explain just a little bit more about what you  
22          meant there?

23          A. Yes, I think it goes all the way back to the definition  
24          of a constable, which is a constable is a citizen  
25          locally appointed having authority under the crown. So

## Transcript of the Sheku Bayoh Inquiry

1 right from the beginning -- right from the beginnings of  
2 policing, and I won't dwell on it, but right from the  
3 beginnings of policing it was, you know, the shire  
4 reeve, it was the constable served in that role for a  
5 year in his or her own community and then it was someone  
6 else's turn.

7 So the idea of the community policing itself seems  
8 to me to be in an environment where we're low on numbers  
9 so, you know, there aren't enough police officers to  
10 control society and so we look to communities to  
11 regulate themselves. I think if the officers working in  
12 those communities and, again, I have made this sound  
13 less nuanced than it is. But the basic principle is  
14 that if you come from a particular community, you  
15 understand the dynamics of that community. You're --  
16 say if you go to somewhere like Dumfries and Galway,  
17 people are cheek by jowl. One minute they're taking a  
18 statement from them or recording a crime and 20 minutes  
19 later they have taken their uniforms off and they're  
20 neighbors and they're in the school playground. So I  
21 think it makes people more invested in the communities  
22 that they work in, I think they are more recognisable  
23 and, I don't know, just some sense of a -- some sense of  
24 a closer relationship with the communities.

25 And I say it's more nuanced than that, because

## Transcript of the Sheku Bayoh Inquiry

1 obviously, you know, it's not as simple as someone who's  
2 never lived in Dumfries and Galloway can't go and police  
3 Dumfries and Galloway, of course, they can, but I think  
4 it's trying to recognise that connection between where  
5 you live and where you work. And it probably speaks a  
6 bit to some of my early experiences of lots of white  
7 police officers policing black communities and I think  
8 that clearly didn't work particularly well in my  
9 experience and it would have worked much better had we  
10 had behind many more officers from within those  
11 communities.

12 Q. Right. Can we look at paragraph 135, and here you talk  
13 about working with black and other minority ethnic  
14 officers:

15 "I'm asked if I have an awareness of what proportion  
16 of Police Scotland officers were from minority ethnic  
17 backgrounds when I was working in Police Scotland. My  
18 recollection was it was around 1 per cent across the  
19 force. It was disproportionately small compared to the  
20 proportion in wider society. I also recall that it went  
21 down to something like 0.3 per cent of sergeants. When  
22 looking at ranks above sergeant, the numbers got  
23 vanishingly small."

24 And you're obviously talking about limited numbers  
25 of officers from black or ethnic minority communities

## Transcript of the Sheku Bayoh Inquiry

1           within the police, but I'm interested in this comment  
2           about the senior ranks. Can you explain a little more  
3           about what your experience was in that regard?

4           A. Sorry. So ranks above sergeant?

5           Q. Yes.

6           A. Well, there were just very few of them. I mean I'm  
7           trying to think in Scotland if I can think of four or  
8           five at superintendent level maybe. It's of that order,  
9           vanishingly small numbers. And of course, if you don't  
10          mind me saying, one of the impacts of that is it puts a  
11          massive pressure on those individuals, particularly at  
12          senior rank. So when you talk about things --  
13          organisations like SEMPER, you know, if you're a black  
14          superintendent in Police Scotland then officers --  
15          officers across the organisation are going to look to  
16          you as a role model, they're going to look to you as an  
17          exemplar, as a mentor and they're going to look to you  
18          to kind of carry a burden at senior levels on their  
19          behalf.

20          Now, you might want to do that, you might be  
21          prepared to do that, but you might just want to be a  
22          really good superintendent and get qualified to be a  
23          chief superintendent and get on with your career. And I  
24          think the smallness of the numbers means that I  
25          suspect -- again, it's not my personal experience, but

## Transcript of the Sheku Bayoh Inquiry

1           just what I watched and what people relayed to me is  
2           that it puts increasing amount of kind of moral pressure  
3           on such officers to also be representatives of their  
4           entire community in a way that obviously doesn't happen  
5           for white officers. And I would say, again, because of  
6           the size of the Met, I think it was 55 thousands people,  
7           because of the size of the Met it was much more common  
8           to have black inspectors and black chief inspectors and  
9           Asian officers at those kind of ranks and so it was more  
10          the case, I think, that those who -- that they were in a  
11          position to opt in to taking those kind of  
12          responsibilities on behalf of others, rather than, well,  
13          you're there, you need to do it for us.

14         Q. Right. Can I move on now, please, to the experience of  
15          the transition to Police Scotland in April 2013. Can we  
16          go back to paragraph 16, please, of your Inquiry  
17          statement. Here we are:

18                 "In my view, the process that managed the transition  
19                 into Police Scotland (2012/2013) was suboptimal in a  
20                 number of ways:

21                         "The process was insufficiently strategic or  
22                         inclusive;

23                         "The prioritisation of basic operational competence  
24                         during transition to the exclusion of issues of culture,  
25                         equality and diversity;

## Transcript of the Sheku Bayoh Inquiry

1           "Selection of key staff for the project team(s)  
2           lacked fairness and transparency.

3           There was a real sense of either being 'in the gang'  
4           or not."

5           I'm interested in these specific bulletpoints that  
6           you've mentioned. Obviously, we're interested in race  
7           and equality, diversity, inclusion. You have mentioned  
8           those specifically here. Can you explain some of the  
9           issues carry where this transition into Police Scotland  
10          was suboptimal and the impact that had on operational  
11          duties?

12         A. Yes.

13         Q. Sorry that's a big question.

14         A. It's a very big question and I take a long time  
15          answering your short ones.

16          So the transition to Police Scotland was a  
17          generational opportunity. It was a massive -- a massive  
18          opportunity for the country, for its police officers to  
19          rethink the way that policing was delivered in Scotland.  
20          This is my view.

21          The context in 2012, I think there were two things  
22          that I would point to. One is -- so we were heading  
23          towards the announcement of the Independence Referendum  
24          and Scottish Government were working up what they called  
25          the Scottish approach to government and, very simply,

## Transcript of the Sheku Bayoh Inquiry

1           Scottish approach to government talked about a  
2           flourishing Scotland would occur when we had increasing  
3           equality, increasing participation and increasing  
4           economic wealth. And that the way that we would design  
5           our public services would be based on approaches which  
6           were assets based, collaborative and relied on  
7           coproduction. So the whole narrative starting to  
8           develop in government was about this is service users  
9           designing services with service providers in kind of  
10          equal partnership, but equality and participation were  
11          fundamental to a flourishing Scotland. So that was one  
12          part of the context.

13                 The second part of the context I saw was the  
14                 opportunity presented by the new legislation which  
15                 defined the purpose of policing as to -- forgive me if  
16                 the words are slightly wrong -- improve the safety and  
17                 wellbeing of people, locales and communities across  
18                 Scotland. And that seemed to me to offer us an  
19                 opportunity, because clearly government didn't think  
20                 wellbeing and safety were the same thing, otherwise they  
21                 wouldn't have used two words, and it gave us, the  
22                 police, the opportunity to think about what contribution  
23                 could policing make to the wellbeing of communities.  
24                 And that has all sorts of complications in terms of how  
25                 we prioritise our resources, how we engage with

## Transcript of the Sheku Bayoh Inquiry

1 communities, what we think wellbeing means. It has  
2 massive implications for what you set up as your  
3 performance regime. And once you have decided that,  
4 then it has massive implications, because you then have  
5 to build the workforce with the culture to deliver those  
6 things.

7 So I, and I obviously wasn't alone, but I saw  
8 massive opportunities for the police to step back and to  
9 engage broadly with communities and organisations across  
10 the country and have those discussions and set a vision  
11 for a police service that was -- that could be different  
12 and could leave behind some of the less good  
13 characteristics of its past. So my hope was that the  
14 service would embark on that path and my -- kind of  
15 sounds a bit glib -- but I think what we did was we set  
16 our minds and our energies to police reorganisation and  
17 not police reform. So I think -- so I think when I say  
18 insufficiently strategic or inclusive, that's what I  
19 mean. I think there were some massive opportunities to  
20 think again about what policing could look like, about  
21 what police leadership needed to look like.

22 So policing is massively complex and it's about  
23 nuance and it's about discretion and it's about coping  
24 with complexity. And traditionally, what the police  
25 service has done to manage that is to write lots of

## Transcript of the Sheku Bayoh Inquiry

1 standard operating procedures and try and cram it all  
2 into a kind of box where if you just do A, B and C, you  
3 have kind of met the need. If you start to think about  
4 wellbeing and participation -- if you start to think in  
5 the way that I have suggested, then you start to think,  
6 well, do we need a different profile to our leadership?  
7 Do we need to be identifying and finding leaders who  
8 excel at coping with complexity and ambiguity, rather  
9 than leaders that are fantastic at getting people to  
10 comply with standing orders. And if that's the case,  
11 then that is a different skill set and it creates a  
12 different organisation and, potentially, we had the  
13 opportunity to do that thinking and to set off in that  
14 direction. And in my view, we sort of did the opposite.  
15 We kind of reverted to one particular model that already  
16 existed and we said, well, that model is going to apply  
17 all over Scotland and --

18 Yes, so in terms of the next point then about  
19 culture quality, equality and diversity is if you start  
20 to think -- and all the points are linked obviously. So  
21 if you're starting to think about a different -- if  
22 you're trying to think in a different way about what  
23 policing could be in Scotland, then you have to think  
24 about what I kind of workforce delivers it, what kind of  
25 leaders deliver it, what kind of engagement and

## Transcript of the Sheku Bayoh Inquiry

1 relationship with our communities need to deliver it and  
2 that will set you on a course of action where you cannot  
3 help but, I would suggest, be really thoughtful about  
4 the culture of the organisation, about what does quality  
5 policing mean in terms of the outcomes you deliver, and  
6 you have to -- you can't avoid issues of equality and  
7 diversity, you can't avoid your analysis of the  
8 organisation in 2012 saying we have got issues with the  
9 way that our staff are treated, we have got issues with  
10 our service, we are institutionally racist,  
11 institutionally discriminatory. You can't avoid that  
12 conclusion and, therefore, at that point, designing a  
13 new organisation you say, well, as I say, it's a  
14 generational chance to say, well, actually how do we do  
15 this differently, how do we move forward, and we missed  
16 that opportunity. The issue of staff I'm sure you're --  
17 yes, it's to do with the second one as well, the  
18 prioritisation of basic operational competence.

19 So it was quite a tight -- others will disagree with  
20 me on this, it was quite a tight team and it set off  
21 with a sense, probably rightly, but a sense of urgency  
22 and complexity about the task that it had been given and  
23 the approach was to keep it a very controlled process  
24 and that led, I think -- so the process I saw was that  
25 people were selected to go on the team on the basis of

## Transcript of the Sheku Bayoh Inquiry

1           perceived operational competence, on the basis of  
2           relationships they had, on the basis of his chief says  
3           he's available so he can go. And we at one point  
4           I remember writing a letter which went from my chief in  
5           Lothian and Borders to the team -- to the reform team  
6           saying, look, kind of we want to be a values-based  
7           organisation and here we're behaving even at the  
8           beginning in a way where we're not being consistent with  
9           some of those values. Again, it sounds pompous when you  
10          tell it backwards, but we're not being consistent with  
11          those values.

12                 So we could and at the time, because at the time  
13          I was head of equality and diversity for the Chief  
14          Police Officers' Association in Scotland, so I had a  
15          kind of locus in it, suggested that we could run in  
16          probably over two weeks a more transparent equitable  
17          process that could fill the gaps on the team and that  
18          met with a pretty negative response and I think -- I  
19          just think in all of these respects we didn't start off  
20          in the right direction and I think, and this -- I will  
21          break my own rule and speak for all off 2015 -- but  
22          I think Police Scotland has carried the burden of that,  
23          perhaps unnecessarily, ever since.

24          Q. I think if we can turn to paragraph 66 and 67 of your  
25          statement, again, here you're talking about your

## Transcript of the Sheku Bayoh Inquiry

1 experience of the transition to Police Scotland:

2 "I am asked if I notice any particular similarities  
3 or differences in relation to race and the attitudes  
4 towards race in Scotland compared to England. Yes.  
5 I was surprised as how it virtually wasn't a  
6 consideration in the whole lead-in to the transition  
7 process."

8 And then at 67 you say:

9 "When the transition to Police Scotland started they  
10 appointed a DCC to lead the process. Quite early on  
11 there was a meeting and part of the approach was to  
12 assign to the chief officers around Scotland a piece of  
13 the transition work. For example, I was given traffic  
14 and operations. Around that table it was all middle  
15 aged white men. There weren't many options at that  
16 point in Scotland to choose someone who wasn't a white  
17 middle aged man, but there was a woman assistant chief  
18 constable, at least one, and she wasn't in the room. I  
19 offered to not take forward traffic and operations and  
20 suggested that it should be taken forward by our female  
21 colleague. That was accepted and that would leave me  
22 with capacity. I suggested that I would take forward a  
23 bit of work on culture and diversity and equality  
24 implications of the whole process. I was surprised that  
25 those issues hadn't been identified as pertinent to the

## Transcript of the Sheku Bayoh Inquiry

1 process at that point."

2 Is this really examples of what you have just been  
3 saying, that there weren't any women in the room, race  
4 wasn't a factor in the room, and you were surprised that  
5 issues of culture, diversity and equality were not  
6 identified or hadn't been identified as pertinent?

7 A. Yes, I mean what I can't answer for is why there were,  
8 to my recollection, no women in the room. May have been  
9 perfectly good reasons why that was the case. We were  
10 all busy operational senior staff, so I wouldn't claim  
11 that in any way to be a kind of cultural thing.

12 Yes, I was surprised, so if you looked at the list  
13 of areas of activity, they were all the kind of nuts and  
14 bolts of the organisation. I mean there was one kind of  
15 ironic thing that came out of the meeting that there was  
16 a guy there from I think it was Lloyds Bank or Santander  
17 anyway, they were merging I think or they had around  
18 about that time, and he was in the room to give us some  
19 observations on being part of a massive programme of  
20 organisational change. And his one take away at the end  
21 of it was that whatever else you do the single most  
22 important thing you focus on during this kind of  
23 organisational change is culture and then we all sat  
24 down to talk about traffic and operations and firearms  
25 and didn't talk about culture.

## Transcript of the Sheku Bayoh Inquiry

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

## Transcript of the Sheku Bayoh Inquiry

1           saying in your statement?

2           A. There are of course people on the team who would  
3           vehemently deny that, but, yes.

4           Q. All right. Can I move on to your experience of working  
5           with the public. Paragraph 33, first of all, and I'm  
6           interested in paragraph 2 of this answer. So if we go  
7           to 33 and look at the second paragraph, you say:

8                     "I was a response officer (from 1985) primarily in  
9           the south of Bristol, which was then predominantly white  
10          working class, lots of poverty, lots of child neglect.  
11          So much of my day-to-day work was, to put it bluntly,  
12          policing poor white people."

13                    I think we said at the outset of your evidence you  
14          weren't in a response team in Police Scotland?

15          A. No.

16          Q. You were a DCC?

17          A. Yes.

18          Q. But you do have experience as a response officer?

19          A. Yes.

20          Q. And that was in Bristol when you worked there?

21          A. Yes, 40 years ago.

22          Q. Sometime ago:

23                    "The next door division of which I ended up as the  
24          deputy commander was where lots of Bristol's visible  
25          minority ethnic communities lived. I can say on

## Transcript of the Sheku Bayoh Inquiry

1 reflection, with a degree of certainty, that we would  
2 deploy probably more resource to incidents involving  
3 people from the black community where there was a sense  
4 there might be violence than we probably did in areas  
5 where we were policing white communities. This may be  
6 my personal perspective, but I think in general terms  
7 there was a higher sense of risk among officers in the  
8 context of policing the black community than there  
9 probably was in the white community context. As I say,  
10 that's a bit impressionistic and it does go back three  
11 decades."

12 I'm interested in -- and 34 I should say you talk  
13 about Macpherson and you say you talk of black  
14 communities being "overpoliced and underprotected."

15 And at 35 you talk about policing and I won't read  
16 out the whole paragraph here, but you talk about  
17 policing different communities with a different sense of  
18 risk. If we can move down, you'll see that.

19 We've heard evidence from a Professor Meer who gave  
20 evidence to the Inquiry and he talked about racial bias  
21 in judgments of physical size and formidability and the  
22 size of the person and the perceived threat or harm that  
23 they could potentially cause and he called it a "harm  
24 bias". So a perception of a greater threat from black  
25 men who may have been muscular in their physique and

## Transcript of the Sheku Bayoh Inquiry

1           talked about a study from America, Wilson and Others,  
2           where two men of similar muscularity and size, one black  
3           one white, and I'm summarising here, the black man would  
4           be seen and perceived as being at greater risk of  
5           causing harm and greater threat.

6           And Professor Meer talked about the impact and the  
7           consequences of that perception and he said that, yes,  
8           if there was a perception of the black man that he was  
9           potentially going to be capable of causing greater harm  
10          and that was a misperception, because the men, the white  
11          man and the black man, were similar sizes. He said that  
12          there's an over-attribution of size, but there's a  
13          greater likelihood of perceiving the man as causing --  
14          risk of causing greater harm. And he said that it  
15          didn't simply stop there, not just in terms of size and  
16          harm, but the consequence of that was that potentially  
17          greater use of force would be adopted against the black  
18          man and that that force would go on longer.

19          I'm interested in -- I have obviously summarised  
20          Professor Meer's evidence to a large extent, but does  
21          that appear to tie in with what you were saying about  
22          this perception of harm when you were policing black  
23          communities?

24          A. I'm trying to access the dynamic at the time a long time  
25          ago. I -- I recognise what you say. I think it was --

## Transcript of the Sheku Bayoh Inquiry

1 I think our perception, so I'm talking me as a young  
2 patrol officer, I think our perceptions were driven --  
3 my perception is probably driven that would be  
4 subconscious I think or unconscious.

5 Q. Yes.

6 A. I think our kind of front of our head perception would  
7 have been driven by the history of violence in black  
8 communities and we don't need to talk for very long  
9 about why that might have happened, but -- so I was a  
10 PC, I think I referenced some of them there, you know,  
11 we had St Paul's, we had Brixton, we had Toxteth we had  
12 and so as part of your kind of wiring it just somewhere  
13 it was these communities are more volatile. If we get  
14 this wrong or we go in insufficient numbers, we are at  
15 risk of -- I mean I can kind of remember the sense of  
16 the risk of being surrounded if you went in just a  
17 couple of you. I mean we were -- it was these days  
18 that -- I mean I talk about, you know, policing  
19 differently, we weren't --

20 So the division I was on was adjacent and next door  
21 to St Paul's, and we could -- again, forgive my  
22 language, but we could pursue vehicles that were  
23 involved in criminality, we could pursue them to our  
24 heart's content, wherever on the division we wanted to  
25 go. If we pursued a vehicle from our division across

## Transcript of the Sheku Bayoh Inquiry

1           the boundary and it became clear it was heading into  
2           St Paul's, then we were more often than not called off  
3           the pursuit or we were required to get additional  
4           permission from the control room based on additional  
5           resources that were around us to support us.

6           So if I say there was just something in the kind of  
7           atmosphere of policing in that place at the time.  
8           I think there was -- there was a sense of I mean I'm  
9           just trying to makes I'm not -- I'm not getting my  
10          chronology wrong, but I think there was -- there was  
11          talk of "Yardies" and a sense of young black men being  
12          involved in kind of serious organised crime in terms of  
13          drug dealing in way that in white estates it was  
14          sniffing glue and a bit of cannabis and just -- of  
15          course those things aren't true, but I'm just trying to  
16          give you access to where I think my head and maybe my  
17          colleague's heads were. So it was sort of reinforced by  
18          the organisation in terms of operational procedures and  
19          what we saw on the news and Keith Blakelock had been  
20          killed and we were, you know, you didn't want to be the  
21          next Keith Blakelock.

22          So there was a lot going on around that. And that's  
23          what I mean about when I talk about we used more  
24          resources. I would say in general terms you would want  
25          back up going into St Paul's in a way that you wouldn't

## Transcript of the Sheku Bayoh Inquiry

1           necessarily going into Bedminster, you know, two miles  
2           down the road and all those things build, they build a  
3           kind of background mindset.

4       Q.   And that mindset was not corrected by the service that  
5           you were working within at that time?

6       A.   No.  I mean, there were -- you know, again you give a  
7           really straightforward answer but there were some real  
8           heros, Superintendent Dave Warren that I worked with in  
9           St Paul's was a real pioneer of police engagement with  
10          communities.  Detective Superintendent Steve Livings who  
11          was involved in the development of family liaison and  
12          there was a murder in St Paul's on New Year's Day in  
13          1996 of a guy called Bangy Berry who was a community  
14          worker who intervened in a robbery and got killed for  
15          his trouble right in the middle of St Paul's and the  
16          police response to that, you would still look at that  
17          now and say that was exemplary because it was about  
18          engagement with the community and the family and -- you  
19          know, so these -- these things are never binary, it was  
20          not just it was all bad, there was some great stuff  
21          going on, but I'm just trying to give a sense of the  
22          kind of prevailing things that played around in the mind  
23          of a patrol officer at that time in that place.

24       Q.   Thank you.  Thank you.  I would like to move on to  
25           paragraphs 44 and 45 and this relates to the death of

## Transcript of the Sheku Bayoh Inquiry

1           Mr Menson. So we talked about this paragraph at the  
2           beginning of the day.

3           A. Yes.

4           Q. Let's look at 44, first of all. This is the one that  
5           you corrected this morning for us:

6                     "One case immediately came to make when I was asked  
7           about those terms was, there was a man called Michael  
8           Menson, who was a black musician who was found at the  
9           side of the road. He had burns all over his body and  
10          was taken to hospital. If I remember rightly, while he  
11          was in hospital, in and out of consciousness, he told  
12          the nurse that he'd been attacked. The Met decided he  
13          was a mad, bad schizophrenic who'd set fire to himself  
14          and that was how the case was finalised. The Racial and  
15          Violent Crime Task Force reinvestigated the case and  
16          managed to find a telephone box which Michael had been  
17          he would against, strayed with some sort of accelerant,  
18          and set on fire. Clearly he'd been murdered. They  
19          reinvestigated it."

20                    And then you've corrected the position regarding  
21           these suspects.

22          A. Yes.

23          Q. And you say 45

24                    "That was a massively impressive piece of detective  
25           work, a massively important case, like the racist murder

## Transcript of the Sheku Bayoh Inquiry

1           of Stephen Lawrence, in terms of challenging the  
2           perception of the first officers on the scene, and  
3           challenging the perception about an investigative  
4           hypothesis or investigative strategy that decides within  
5           the first 20 minutes what's happened and then you go  
6           around looking for the evidence to prove your case. The  
7           reason that triggered in my mind was I think it was my  
8           reading around that case, and also reading about a  
9           number of deaths in custody, that were ascribed to  
10          positional asphyxia, that raised my awareness of police  
11          attitudes to mental health issues. I think that would  
12          have been when I started to become aware of terms like  
13          that and to read a bit more into some of the mental  
14          health issues and the behaviours that can be mistaken  
15          for being drunk or on drugs. The Michael Menson case,  
16          I believe, is really important in this context."

17                I'm interested in your impressions of the  
18                significance of this in relation to policing someone who  
19                has been perceived as having mental health issues.

20          A. Yes, and I must make clear that I had nothing personally  
21          to do with that case in terms --

22          Q. Yes.

23          A. -- of its investigation or the aftermath. The reason it  
24          matters to me is it's one of the very first boxes of  
25          files I got out when I arrived in the Met and the

## Transcript of the Sheku Bayoh Inquiry

1           Diversity Directorate and I can remember just thinking  
2           I'll just get a sense of this case because it's clearly  
3           important to the history of the unit and just being  
4           immersed in it for days, reading as much as I could. So  
5           in terms of its personal impact on me, I think it was  
6           significant. In terms of your question, there's  
7           probably not much more I can add than is in the  
8           paragraph. I think -- I think the issue about -- the  
9           issue about not deciding what you're dealing with  
10          straightaway is just so fundamental, just so fundamental  
11          to effective policing. And I think -- you know, I see  
12          issues around mental health as very clearly all part of  
13          the same agenda and the same world as diversity and  
14          equality because it's about -- fundamentally it's about  
15          understanding that the way you see the world through  
16          your eyes is not the same as the way everything else  
17          sees the world through their eyes and if you interpret  
18          it through your eyes, you're going to completely  
19          misinterpret so many things about that other person and  
20          their behaviour. And I mean -- yes, I mean this case  
21          has so many things in it but that I think is one, you  
22          know, not listening to Michael when he was in hospital,  
23          not listening presumably to the nurse to whom Michael  
24          told the story, and and having -- I mean, I can't  
25          remember the detail well enough but being labelled a

## Transcript of the Sheku Bayoh Inquiry

1           schizophrenic early on and it was like, oh, that's all  
2           right then, we've sussed this out, we know what this is,  
3           when it fundamentally wasn't that and I think it was  
4           also one of the first -- one of the first cases for me  
5           where I had a glimpse of, because I had -- I had had  
6           dealings with Neville Lawrence before this but  
7           understanding and having -- not understanding, having a  
8           glimpse of how appallingly difficult it must be to be a  
9           member of someone's family and feel you're not getting  
10          justice and how much -- it sounds like sickly and  
11          patronising but just how much respect and admiration I  
12          have for the determination and the dignity and just the  
13          sheer staying power of families from, you can list the  
14          cases, but the Lawrences, Mensens, Sylvesters,  
15          Sean Rigg's family, the San Family, and in my view these  
16          cases should be required reading at training so that  
17          people -- initial training because lots of colleagues  
18          that I spoke to about this case when I was seized of it  
19          back in 2003, lots of colleagues just could not accept  
20          that the police could get it so badly wrong. They just  
21          could not accept that the police were capable of  
22          misreading something, of failing to listen to a family.  
23          So I haven't answered specifically your question but I  
24          think the sense of why it has to be included in my  
25          statement because it had a very kind of powerful

## Transcript of the Sheku Bayoh Inquiry

1           learning and powerful emotional impact on me at the  
2           time.

3       Q.   Thank you.   Can I stop you there for a moment, please?

4       A.   Yes.

5       Q.   Would that be an appropriate time?

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

7       (1.01 pm)

8                               (Luncheon adjournment)

9       (2.04 pm)

10      LORD BRACADALE:   Ms Grahame.

11      MS GRAHAME:   Thank you.   I would like to go back to something I asked  
12      you about

13               before lunch just very briefly.   Could we go back to paragraph 85  
14      of your

15               Inquiry statement, please, and this is where you talked about the  
16      Macpherson

17               definition, and I asked you earlier today:

18                        "You see it detected in processes, attitudes and  
19               behaviour, which amount to discrimination."

20               If we can move up the page:

21                        "Through unwitting prejudice, ignorance,  
22               thoughtlessness and ways of stereotyping."

23               If we could return to that phrase "unwitting  
24               prejudice" there, is there scope within the Conduct  
25               Regulations and the conduct arena of the police for

## Transcript of the Sheku Bayoh Inquiry

1           unwitting racism to be dealt with?

2           A. Off the top of my head, I would say theoretically yes.

3           You're taking me back many, many years to my

4           recollection of Conduct Regulations, but whether it

5           would be -- whether you would be dealing with unwitting

6           prejudice or you would be dealing with the consequences

7           of it is probably the distinction. I don't -- yes,

8           unless you can help me any more with the question.

9           Q. Well, if there was unwitting so unknowing --

10          A. So displayed by --

11          Q. -- racism.

12          A. -- an individual.

13          Q. By or prejudice and we're interested in racism --

14          A. Yes.

15          Q. -- by an individual, could that, is there anything that

16          would stop that being dealt with in terms of the

17          Regulations on conduct?

18          A. I can't see why, no.

19          Q. All right, thank you. In your experience do you recall

20          any examples of unwitting prejudice being dealt with

21          through the conduct sphere?

22          A. Not immediately. I would have to give it some thought.

23          Q. All right. Thank you. Can I move on then, please, to

24          paragraph 49 and here you talk about a comparison

25          working for England and Wales and Police Scotland,

## Transcript of the Sheku Bayoh Inquiry

1           comparisons between working for the police in England  
2           and Scotland:

3           " My observations about policing in Scotland  
4           following my first year or two in Lothian and Borders  
5           Police were... "

6           And you have given the Chair a number of  
7           bulletpoints in relation to this?

8           A. Yes.

9           Q. And I'm interested in one specific bulletpoint here and  
10          that's the fifth:

11          " Compared to England and Wales a lack of impact from  
12          the office of HMIS."

13          And then I think you also talk about this at 61 and  
14          63 and if we could turn to them briefly. Here we are:

15          " It didn't feel to me that Her now His Majesty's  
16          Inspector of Constabulary Scotland (HMICS) had quite the  
17          influence and penetration into everyday policing that it  
18          had in England and Wales in terms of the impact of its  
19          reports. In England and Wales, there was a constant  
20          process of basic command unit inspections by the HMIC,  
21          so if you were a divisional commander you could expect  
22          at some point the HMIC's team to turn up and take your  
23          division apart and produce a report. Those were very  
24          influential processes and that was absent in Scotland."

25          And then at 63 you say:

## Transcript of the Sheku Bayoh Inquiry

1            "I think I felt less accountable to the Police  
2 Authority in Lothian and Borders than I had in England.  
3 As a senior officer running a force, I think the Police  
4 Authority were less intrusive and less rigorous with us  
5 than I had experienced in England. I felt slightly less  
6 uncomfortable being held to account by them. I think  
7 the public generally in Scotland had more trust and  
8 confidence in policing in Scotland than communities did,  
9 and certainly were developing in the later years in  
10 England. There hadn't been the same high profile  
11 failures in Scotland, I don't think."

12            I'm interested in your reflections on the  
13 differences then between the HMICS in Scotland and what  
14 impact they had in Scotland on the police compared to  
15 your experiences which sound much more rigorous, is  
16 I think the word you use, in England. What were the  
17 difference then?

18        A. I think the first thing to say is probably I have -- the  
19 way I have phrased that makes it sound inevitably like  
20 it's a bad thing that the Scottish HMIC was less  
21 intrusive or whatever word I used. I think I would have  
22 been better describing it as different. And I say that  
23 because what I write is true that in England and Wales  
24 the programme of basic command unit inspections was very  
25 intrusive, I was on the receiving end of one myself at

## Transcript of the Sheku Bayoh Inquiry

1 Westminster, and the team came in a bit like you imagine  
2 an Ofsted inspection and they take apart your  
3 observations and produce a publicly available reported.

4 I think one of the challenges with that is there's  
5 nothing essentially wrong with that as a process, but,  
6 as in all these things, it depends what they're  
7 inspecting, because they drive behavior by the things  
8 they inspect and particularly at that point, which was  
9 probably the mid to late nineties, I think the Met was,  
10 in common many other forces, was in the grip of the  
11 performance -- I call it performance mania, but being  
12 driven by government, but everything was about  
13 performance culture, do you have a performance culture,  
14 are you chasing the numbers and the HMI would come in  
15 and the kind of mental model they brought into an  
16 inspection was, where's the performance culture, where's  
17 the performance framework? And if they didn't find it  
18 in the way that they wanted to find it, then you weren't  
19 doing a good job or your division wasn't being run  
20 right. And again, my personal view is that drove some  
21 less than desirable behaviours I think.

22 So the fact that they had an intrusive process that  
23 was respected and was known about by divisional  
24 commanders and force hierarchies, that is true, whether  
25 or not that was always a positive. I think in Scotland,

## Transcript of the Sheku Bayoh Inquiry

1           and I want to say this with the utmost respect to the  
2           people that fulfilled the roles, I think in England and  
3           Wales Her Majesty's Chief Superintendent of  
4           Constabulary, to my recollection, was always previously  
5           a senior chief constable and his, his or her staff were  
6           assistant chief constables, chief superintendents. And  
7           certainly for the period of time that I'm talking about  
8           in Scotland, the rank of the individuals who held that  
9           role I think there was -- it doesn't matter, but they  
10          weren't senior long-serving Chief Constables. So  
11          I think the kind of -- it sounds mad, but the sort of  
12          level of respect for their intrusion into your affairs  
13          was probably less so, because, rightly or wrongly, you  
14          would regard their credibility as not quite as  
15          significant as that of a senior chief constable.

16                 I would say and I said I would not offer a comment  
17          on present, but sitting outside the organisation now,  
18          I think that is changing and I do think now that the  
19          office of Her Majesty's Inspector in Scotland is  
20          producing some quite incisive and quite intrusive  
21          reports that are clearly having an impact, so I think  
22          that is changing, but I think -- yes, it was just a  
23          slightly different culture around what HMIC was and they  
24          had far fewer resources, so far less ability to go out  
25          and do big thematic inspections.

## Transcript of the Sheku Bayoh Inquiry

1 Q. All right, thank you. So in terms of your perspective  
2 on HMICS, do you have any views on what, if anything,  
3 would need to change or what could be done to improve  
4 the reports by HMICS, the regard with which they're  
5 considered in the service?

6 A. The only thing I would offer is I was not a big  
7 supporter at the time of handing the role over to a  
8 nonpolice officer and I think it worked really well, so  
9 I think in Scotland we should consider Her Majesty's  
10 Inspector not having a police background.

11 Q. Right, we've certainly heard from a number of witnesses  
12 about the number of police officers or former officers  
13 who were involved in PIRC doing the investigations. Do  
14 you think that minimising police involvement wouldn't be  
15 a bad thing in internal bodies?

16 A. I think getting the balance right would be an excellent  
17 thing. I think you do need a guide to the highways and  
18 byways of police culture and practice sometimes, so I  
19 think you need to retain that kind of knowledge and  
20 experience in the team, but I think in terms of where  
21 you front up to an investigation and you deal with  
22 families in the public and the overall -- the overall  
23 strategy for the investigation, I think it's important  
24 that you have that separation and that you have  
25 investigators who haven't got a police background.

## Transcript of the Sheku Bayoh Inquiry

1 Q. Thank you. Can we move on to paragraph 84 of your  
2 Inquiry statement, please. And this is a return to the  
3 section on racism and the police:

4 "During my service I have seen overtly racist  
5 behavior from police officers and staff and have never  
6 been in doubt that the service generally is  
7 institutionally racist. I have spoken often at events  
8 inside and outside the service to express that view. At  
9 the point I left Police Scotland, it too was an  
10 institutionally racist organisation. The evidence ..."

11 That was 2015, December 2015?

12 A. Yes.

13 Q. "The evidence included recruitment outcomes,  
14 representation in the misconduct system, the lack of  
15 representation in senior ranks, attitudes to the staff  
16 support associations, the failure to recognise the  
17 importance of the issues during the transition in 2013  
18 and a performance regime that drove increases in  
19 activity that were well documented as impacting  
20 disproportionately on minority communities."

21 I would like to go through that list, if I may?

22 A. Gosh.

23 Q. You say that Police Scotland was institutionally racist?

24 A. Yes.

25 Q. And the evidence for your views on that included

## Transcript of the Sheku Bayoh Inquiry

- 1 recruitment outcomes; what was it about recruitment  
2 outcomes that concerned you?
- 3 A. That the proportion of people from minority ethnic  
4 communities in the police was not representative of the  
5 proportion in the community at large.
- 6 Q. Right. Could you see a way for that being improved,  
7 recruitment from the minority ethnic and black  
8 communities?
- 9 A. Well, it sounds glib, but become an outstanding  
10 organisation where everyone is respected and valued,  
11 where you deliver outstanding performance to communities  
12 and you make it an organisation that people aspire to  
13 join.
- 14 Q. Thank you. Representation in the misconduct system.  
15 Now, we've touched on this today already. Was there  
16 anything else that was obvious to you that gave rise to  
17 this view that the police service was institutionally  
18 racist?
- 19 A. I think we've covered that earlier, yes.
- 20 Q. The lack of representation in senior ranks, I think you  
21 have covered that?
- 22 A. Yes.
- 23 Q. Unless there's anything further you want to add?
- 24 A. No.
- 25 Q. Attitudes to the staff support associations. Again,

## Transcript of the Sheku Bayoh Inquiry

1 I think you have explained that, unless there were  
2 anything -- any other comments you would like to add in  
3 relation to that?

4 A. No, I think the only other point I would make is that --  
5 is that those who engage in the staff support -- so I'm  
6 thinking SEMPER just to keep it straightforward, the  
7 people that sit on the executive committee that do the  
8 work that keep the organisation going are by and large  
9 to my recollection in my time were constables and  
10 sergeants and maybe an inspector and their -- again,  
11 there is no disrespect to the individuals, but if we  
12 then expect them to engage at a strategic level in the  
13 organisation, so to sit down with chief officers, to sit  
14 down with Police Authority, with HMICS, we're expecting  
15 almost the impossible of them, unless we, the collective  
16 we, find a way of investing in their capability and in  
17 the resource they've got available to them to perform  
18 the role that we want.

19 So you could say, well, SEMPER are invited to engage  
20 with us on what wellbeing meant in a community and how  
21 that might impact on performance regimes and leadership  
22 styles and you're asking -- you're asking people who  
23 don't routinely operate in the kind of strategic  
24 environment and haven't had the training and the  
25 experience that the people like me that they're meeting

## Transcript of the Sheku Bayoh Inquiry

1           have had and we're asking them to go in and perform a  
2           useful function and then, and I've heard this about a  
3           number of staff support associations, and then you leave  
4           the meeting and a colleague you're with says:

5                 "I don't know why we bother because really what have  
6           they contributed."

7                 And you think, well, what possible chance do they  
8           have of contributing if you don't kind of equip and  
9           support. The challenge for the organisation doing that  
10          is you don't want to set up a relationship where they  
11          are dependent on your patronage for all their resources  
12          and all their training and support. So it's finding a  
13          way of resourcing that independently so that you give  
14          them the best possible chance of engaging at the level  
15          that you want them to engage at. And I think the  
16          failure to do that derives from unwitting ignorance or  
17          thoughtlessness or --

18          Q. With the repercussions of their lack of training or  
19          awareness?

20          A. Yes, just because -- just because if you don't actively  
21          think that through, then you're denying the organisation  
22          the opportunity to deliver a fair and appropriate  
23          service to communities because you're not listening  
24          effectively to a voice that you could listen to.

25          Q. Thank you. And then you go on to say:

## Transcript of the Sheku Bayoh Inquiry

1           "The failure to recognise the importance of the  
2           issues during the transition in 2013 [which you have  
3           touched on] and a performance regime that drove  
4           increases in activity that were well documented as  
5           impacting disproportionately on minority communities."

6           Now, you have touched on the performance regime when  
7           I asked you about HMCS. I'm interested in this area  
8           where you say "impacting disproportionately on minority  
9           communities." Can you provide a little more detail  
10          about what you mean there?

11          A. I think without seeing what comes after I think --

12          Q. We can move up the screen.

13          A. It doesn't matter, but I think I'm talking about stop  
14          search there.

15          Q. Yes.

16          A. So we know historically that stop search  
17          disproportionately impacts on minority communities,  
18          I don't think there's a lack of documentation on that,  
19          and the performance framework in Police Scotland in the  
20          first -- certainly in the first couple of years when I  
21          was there drove stop search activity in a way that I  
22          still don't quite understand why we did it that way.

23          So stop search -- just for the avoidance of doubt,  
24          stop search is something I think is a really, really  
25          important police tactic. I think we also have to

## Transcript of the Sheku Bayoh Inquiry

1           recognise that there is virtually no evidence, as I  
2           understand it, that the level of stop search is causally  
3           related to the levels of crime and I think -- I think  
4           I was training, grew up understanding stop search to be  
5           a tactic or a power that would enhance relationships  
6           with communities and the reason being -- so I joined the  
7           police just as PACE was introduced in 1986 by the time I  
8           got operational so it introduced section 1 of PACE,  
9           which was police stop and search so all stop search in  
10          England and Wales is statutory, unlike the position back  
11          then in Scotland where it was voluntary. But the way  
12          I was trained on stop search was this power exists so  
13          that where you have reasonable grounds to suspect that  
14          someone is committing an offence, you have an option  
15          short of arresting them, so you can search for stolen  
16          and prohibited articles on the street rather than having  
17          to arrest them, take them to a police station and search  
18          for those articles.

19                 So the idea was it gave you an opportunity to  
20          conduct an encounter on the street which meant you may  
21          well not have to arrest someone, whereas previously you  
22          might have done and, as I say, my best recollection of  
23          my training is that we were trained in it as a method of  
24          de-escalation or as avoiding of unnecessary arrests.

25                 And these numbers might be right. I think I'm

## Transcript of the Sheku Bayoh Inquiry

1           pretty confident they're right. I can find you the  
2           source document. But if you look at the numbers of  
3           people stop searched in 2014, per thousand of the  
4           population, in Manchester, it was ten per thousand of  
5           the population. In London it was 35. In Edinburgh, by,  
6           2014, it was 49. In Glasgow it was 191. Now, I defy  
7           anyone to look at those numbers and suggest that somehow  
8           there wasn't something wrong going on either in  
9           Manchester or in Glasgow, but, you know, my view would  
10          be obviously Glasgow.

11                 In 2014 Police Scotland carried out more stop  
12          searches on 16-year-old boys than there were 16-year-old  
13          boys in Scotland. So the numbers are just -- they just  
14          don't make sense. This activity was being driven by an  
15          interesting performance regime where the top if the  
16          organisation said there are no targets for this  
17          activity, but from some debriefing work I did after the  
18          Commonwealth Games I captured anonymised data from  
19          around the organisation where officers were saying,  
20          well, that's just ridiculous, because of course we have  
21          targets. And this is the point about how performance  
22          regimes drive less than ideal behavior.

23                 So officers were reporting that to get their daily  
24          target numbers they would at the beginning of their  
25          shift go to the place where it was known homeless people

## Transcript of the Sheku Bayoh Inquiry

1           would congregate and search them and that would get the  
2           numbers. There were traffic units who had dedicated  
3           patrol cars that would go out and chase the speeding  
4           tickets and the seatbelt tickets, so that everyone else  
5           could get on with what they understood to be the proper  
6           work of a road policing unit. So these kind of  
7           behaviours were evident in Police Scotland, driven by,  
8           as I say, a performance -- performance regime which kind  
9           of the top and the bottom didn't say the same thing.

10           And back to your point, if you're driving levels of  
11           stop search activity like that you must surely be having  
12           a disproportionate impact. We knew -- I have already  
13           talked about young people and to get the numbers up lots  
14           of young people were searched or they were stopped and  
15           alcohol seized of them and there were times when those  
16           were recorded as stop searches. So the disproportionate  
17           impact on young people is kind of self evident.

18           I can't give you -- I can't quote the numbers or  
19           even the document, but there is a document where there  
20           is some analysis of the data around minority ethnic  
21           communities in Scotland and it does point to  
22           disproportionate application of stop search, but the  
23           point is this is where you come back to institutional  
24           racism can be evidenced by the fact that you have not  
25           asked the question to get the data that you need to

## Transcript of the Sheku Bayoh Inquiry

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

## Transcript of the Sheku Bayoh Inquiry

1           have been talking about?

2           A. Yes.

3           Q. "... and I was expressing my personal view, but had no  
4           real idea what the official position was. I never got a  
5           reply."

6                     Can you tell the Chair a little more about this  
7           situation in relation to your message to a colleague?

8           A. I think that pretty much sums it up. I mean I would say  
9           in defence of my colleague that we all know emails get  
10          sent and sometimes never arrive, but I think -- I mean  
11          it's as simple as that. I sent a three or four line  
12          email saying along the lines of we're discussing this  
13          kind of on a regular basis at critical incident  
14          training, I am giving my personal view, but that may not  
15          be the view of the organisation and, therefore, what's  
16          the view of the organisation so --

17          Q. And did you ever receive any indication from the  
18          organisation as to what the position was in 2015 about  
19          institutional racism?

20          A. No, but I also didn't want to give the impression that  
21          twice a week I was knocking on people's doors asking  
22          what our position on institutional racism was. I mean  
23          I think -- I think the discussion was more often framed  
24          in terms of culture and in terms of -- I think as I  
25          recall it, sort of 2015, end of 2014, I think service

## Transcript of the Sheku Bayoh Inquiry

1           was developing one of its first kind of strategic  
2           documents going forward and it's -- I won't repeat  
3           myself, but it's back to the issues we talked about  
4           earlier about -- about if you can't be clear about what  
5           your organisation is going to be doing, you then can't  
6           really be clear about what kind of culture and what kind  
7           of leadership model supports you in doing that. So the  
8           conversations were around -- more around culture and  
9           strategic thinking than they were specifically about  
10          institutional racism. But you're right I asked the  
11          question and never got a reply.

12         Q. Thank you. Finally, I would like to move on to the  
13          issue of recommendations and the Chair will ultimately  
14          have to consider recommendations and I wonder if we can  
15          look at paragraph 130 of your Inquiry statement:

16                 "On the more general point about reports into the  
17          police handling of cases and/or culture (for example,  
18          the Macpherson Report, the Chhokar Report,  
19          Louise Casey's Report, the Morris Inquiry report,  
20          various Metropolitan Police Authority reports) there are  
21          broad similarities in the recommendations that arise  
22          from them. They deal with leadership, training,  
23          accountability, professional competence and effective  
24          engagement with communities and families. The real  
25          challenge is not coming up with the recommendations, it

## Transcript of the Sheku Bayoh Inquiry

1 is about how you implement the recommendations in a way  
2 that leads to a real and sustained change in the  
3 experience of those we police. The recommendations  
4 arising from the murder of Simon San cover similar  
5 issues. They cover the need for awareness among our  
6 staff about the needs of families and communities; the  
7 need for an organisational culture that enables people  
8 to speak out; the need for adequate and appropriate  
9 training. As I've said, the legislative frameworks are  
10 different in Scotland and England, but the  
11 recommendation from all these reports will have  
12 relevance and meaning in both countries."

13 Now, we've heard from a number of witnesses about  
14 recommendations and the word implementation has been  
15 used. We have heard evidence from Lady Angiolini who  
16 talked about the emergence of the same themes in many of  
17 the deaths of -- particularly of black men and she  
18 described that as indicative of a failure to learn  
19 lessons. And we've heard from Professor Meer that many  
20 of the recommendations have simply not been implemented.

21 And I'm interested in -- your evidence also appears  
22 to focus on implementation as being a key aspect; is  
23 that fair to say?

24 A. Absolutely, yes. And if I can just start by caveating,  
25 again, nothing I'm about to say concerns what

## Transcript of the Sheku Bayoh Inquiry

1           Police Scotland is currently doing.

2           Q. Yes.

3           A. I haven't been part of those discussions, I don't -- so  
4           if you take this as being extant up to 2015. And I  
5           personally was on the receiving end of quite a lot of  
6           these reports and responsible for the implementation or  
7           the monitoring of the implementation, and the picture  
8           that I have in my head is of constantly putting new  
9           wallpaper up on a damp wall. So it looks really nice  
10          for a while, but because the wall is still damp,  
11          eventually it curls at the corners and falls off. And  
12          my experience is that you have -- you have an inquiry  
13          and, sadly, of course they're mostly driven by someone's  
14          death, you have the recommendations, they're picked up,  
15          you have individual leaders, often charismatic people,  
16          often highly talented people who develop a response and  
17          move things forward and then something in the  
18          organisation changes or something in the political  
19          environment changes and enthusiasm wanes.

20                 The other element of that is that I think far too  
21          often police are allowed to mark their own homework and  
22          I think far too often we have historically regarded  
23          implementing a recommendations as a proxy for delivering  
24          the outcomes it was designed to deliver. So we will  
25          say, we had an action plan, it had 17 recommendations on

## Transcript of the Sheku Bayoh Inquiry

1           it, here's a report telling you how we've implemented 15  
2           of them and that doesn't tell you anything about levels  
3           of trust and confidence in the community.

4           So I think -- I think the kind of territory that --  
5           forgive me -- we should be in in terms of how we think  
6           about going forward is what I have always called the  
7           Macpherson gap. So in part 2 of the Inquiry when  
8           they're travelling around the country, Macpherson talks  
9           about the inescapable evidence provided of a  
10          difference -- of a difference -- I can't remember the  
11          exact words -- in opinion between police and  
12          communities. It talks about -- it talks about the stark  
13          contrast between the positive descriptions of policies  
14          by senior officers and the negative experiences played  
15          back by communities who clearly feel that they are  
16          discriminated against.

17          So obviously points to -- and I think -- it is  
18          I think a couple of pages further on in the context of  
19          hate crime, he talks about the common experience of  
20          communities is of fine policies and fine words from  
21          senior officers and yet of indifference on the ground  
22          and it's that indifference that is most damaging to  
23          trust and confidence. They're not exact quotes, but  
24          they're -- you get the sense of it and I think --  
25          I think we need to find a way of closing that gap and it

## Transcript of the Sheku Bayoh Inquiry

1           seems to me and please don't press me on too much  
2           detail, but it seems to me that we have to find a way  
3           and I have always thought of this as like a national  
4           convention on policing.

5           So we need to find a way of bring people from  
6           communities all the way across Scotland into a place  
7           where they can have a discussion with us in the room  
8           about what policing should be, what policing they want  
9           and deserve, and then to engage in a discussion about  
10          what kind of police service will deliver that and then  
11          fundamentally for communities for that convention to  
12          define the performance indicators for which they are  
13          going to hold the police service to account. So that  
14          the process of defining success and holding us to  
15          account for success is taken out of the service.

16          So the service will talk -- again going back to  
17          2015 -- the service will talk about developing metrics  
18          around delivery and it will talk about its equality  
19          outcomes under the general duty, specific duties, but in  
20          the end they all in my experience tend to kind of stop  
21          when you stop measuring inputs and because it's very  
22          difficult to get to outcomes, it's very difficult for  
23          the police because they're focused on resources and kind  
24          of moving on to the next thing very often. So I think  
25          some kind of big way of engaging communities in the

## Transcript of the Sheku Bayoh Inquiry

1 process of setting performance indicators and then  
2 holding up to account that doesn't usurp the  
3 Police Authority, because their role as the kind of  
4 day-to-day sits alongside it. So that would be -- yes,  
5 that's a sort of vague recommendation.

6 I think, if I may, there's probably may be three  
7 other things. One would be to think about the general  
8 duty and the specific duties and whether or not we  
9 should -- whether or not we should put around them a  
10 stronger statutory framework, because if I -- I mean  
11 this might have changed, so if it has then please ignore  
12 me. But my recollection is that the sanction for  
13 failing to meet your duty is a notice from Equality and  
14 Human Rights Commission and I think that's it. So I  
15 think we need to think about holding the police's feet  
16 to the fire more strongly on that, because it seems to  
17 me in the wording of those duties lies the way out of  
18 institutional racism and a lot of other things so and  
19 it's there, it's already in statute so can we find way.

20 And then two other things. They're both based on my  
21 experience of what has successfully in my opinion  
22 changed my levels of awareness and understanding and I  
23 believe I have seen it do same for staff and the  
24 first -- and they're both versions of the same thing,  
25 which is it's about having personal contact with the

## Transcript of the Sheku Bayoh Inquiry

1 lived experience of others and it's about having that in  
2 a prolonged way, so not a two-day course, not a visitor  
3 in the afternoon.

4 And my suggestion would be to think about every  
5 course of probationers that goes through their initial  
6 training, for the duration of that course, they have as  
7 part of the staff team for their group someone appointed  
8 from outwith the police who has lived experience in a  
9 minority community of living with a protected  
10 characteristic. Obviously, they would need training and  
11 support and the rest of it, but that person travels the  
12 journey with that group of probationers and they get the  
13 opportunity to get to know each other, they get the  
14 opportunity to hear about a different life, they get the  
15 opportunity to learn to challenge and that puts a lot of  
16 responsibility to put on that person, but that person  
17 can model challenging the police officer members of  
18 staff in that -- in that learning group. And I think  
19 that would be very powerful and I don't think it would  
20 be overexpensive and someone will turn around and tell  
21 me they already do that.

22 The other, and it's a very, very similar version of  
23 the same thing, which, again, excuse me, but one more  
24 anecdote. When I was the commander at Bath, the  
25 Divisional Commander at Bath, I employed a man who was

## Transcript of the Sheku Bayoh Inquiry

1           an ex-professional footballer called Carl Saunders, a  
2           black man who had retired early because he was injured.  
3           And the story of how he got to me doesn't matter, but he  
4           was employed on the basis that he only had one line  
5           manager and that was me, the Divisional Commander, and  
6           his job description was "make things better". And he  
7           basically had the freedom of the division. And he did  
8           lots of great initiatives with young people in schools  
9           and things like that.

10           But the power of what Carl achieved was he was in  
11           and around the police station everyday and he would go  
12           and sit in the parade room when cops were in having a  
13           cup of tea and he would sit and talk to them and they  
14           would ask him the questions that they probably wouldn't  
15           have asked on a diversity training course, because he  
16           was their friend, he got to know them and shared their  
17           lives.

18           A powerful thing he did for a number of people was  
19           just over the road from the police station in those days  
20           was a branch of a famous electricity retailer and Carl  
21           would -- obviously with them not in uniform, but Carl  
22           would walk them across the road, go into the front of  
23           the shop and he would say to the officer or member of  
24           staff, I'll go left, you go right, but what you need to  
25           do is watch where the security staff go and he knew

## Transcript of the Sheku Bayoh Inquiry

1           without a shadow of doubt that the security staff would  
2           always move in the direction that he went, not in the  
3           direction that the usually white officer would go. And  
4           that's the kind of thing that's very difficult to learn  
5           on e-learning or on a classroom-based course. It's  
6           about that experiential thing and about that being  
7           long-term so Carl was an employee.

8           The challenge -- again, we come back to -- and I  
9           would -- I would think if every division in  
10          Police Scotland and they might already have one -- if  
11          every division in Police Scotland had someone with that  
12          kind of remit and that kind of authorising environment,  
13          ie at the top of the organisation, I think that would be  
14          very powerful. The challenge comes in asking people to  
15          perform that role in a police organisation that isn't  
16          culturally equipped to deal with it.

17          So again -- and I know a lot of my evidences makes  
18          it sound like I think I know the answer to everything,  
19          I don't at all. When I left to move up to the Met, Carl  
20          was moved into the headquarters Community Affairs  
21          Department and given a job description and a role  
22          profile and was put into the chain of command and  
23          because he was police staff of course he was now  
24          reporting to a sergeant and it completely undermined the  
25          whole point of what Carl did, because it turned him into

## Transcript of the Sheku Bayoh Inquiry

1           someone who was now -- they were trying to squeeze him  
2           back into the system.

3           I knew it was a good thing one afternoon when I --  
4           and I still remember walking into the sergeant's office  
5           and there was a sergeant and there was Carl and they  
6           were having the most intense discussion about why  
7           something was racist and why it wasn't. And the  
8           sergeant -- it wasn't an argument, it was a learning  
9           experience for the sergeant and it was a learning  
10          experience for Carl in terms of understanding kind of  
11          where the police priorities in this were. And those  
12          were the kind of discussion without fear of censure,  
13          without fear of suddenly finding yourself in a  
14          discipline process, without being on a course, probably  
15          with people you haven't met before and in front of a  
16          tutor or teacher who carries organisational authority,  
17          somewhere in there is the germ of the kind of thing that  
18          I think will in the end take us forward.

19          But, yes, I'll leave it there.

20          Q. Thank you very much. Could you give me one moment,  
21          please.

22          A. Hm-hmm.

23          Q. Thank you very much. I have no further questions.

24          LORD BRACADALE: Are there any Rule 9 applications? No.

25          Well, Mr Allen, thank you very much for coming to



# Transcript of the Sheku Bayoh Inquiry

1

2

INDEX

3

1 RETIRED DCC STEVE ALLEN (AFFIRMED)

4

2Examination-in-chief by MS GRAHAME

5

6

7

8

9

10

11

12

13