

Transcript of the Sheku Bayoh Inquiry

Tuesday, 1 October 2024.

(10.00am)

LORD BRACADALE: Good morning and welcome to this hearing in the Sheku Bayoh Inquiry. Today the Inquiry will take evidence from Mr Anwar, solicitor for the families of Sheku Bayoh. In the rest of this hearing, the Inquiry will hear evidence relating to certain aspects of training.

Good morning, Mr Anwar, will you take the oath.

THE WITNESS: Yes, my Lord.

AAMER ANWAR (sworn)

Examination-in-chief by MS THOMSON

LORD BRACADALE: Ms Thomson?

MS GRAHAME: Good morning.

A. Good morning, Ms Thomson.

Q. You are Aamer Anwar?

A. Yes.

Q. How old are you, Mr Anwar?

A. 56.

Q. Are you a solicitor?

A. Yes.

Q. I believe that you started your traineeship in 2000, which means you would have qualified in 2002?

A. That's right.

Q. You're the principal solicitor at Aamer Anwar & Co

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1 solicitors in Glasgow?

2 A. That's right.

3 Q. And you represent the families of Sheku Bayoh?

4 A. That's right.

5 Q. You have done so since 4 May 2015?

6 A. Correct.

7 Q. Can I invite you to open up the blue folder in front of

8 you. There are a number of documents in here that you

9 can refer to at any time during your evidence if you

10 would find that to be helpful. Firstly, there should be

11 within the folder a Rule 8 request issued by the Inquiry

12 on 19 January 2024. That has the reference number

13 SBPI 00468. I don't think we need that on the screen,

14 but if you could confirm that we have that in the folder

15 for you --

16 A. Yes.

17 Q. -- Mr Anwar? There should also be your response of

18 2 February 2024. That's SBPI 00453.

19 A. Yes.

20 Q. And again, we don't need that on the screen just now,

21 but may I ask you in responding to the questions that

22 you were asked in the Rule 8 request, did you do your

23 best to answer those questions truthfully and accurately

24 in your response?

25 A. Yes, I did.

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1 Q. The next document we will put up on the screen, please,
2 and that's a statement that you gave to the Inquiry.
3 That's SBPI 00549 and if we scroll down a little, we'll
4 see that this is your statement and that it was taken on
5 19 and 20 March of this year and if we could perhaps go
6 to the very end of the document, we'll see that it was
7 signed by you on 26 April of this year. Your signature
8 has been redacted, but hopefully your signature will
9 appear on the copy in front of you?

10 A. Yes.

11 Q. Paragraph 50, sorry 250, reads:

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

16 So you gave your statement knowing that it would
17 form evidence before the Chair, that it would be
18 published open website?

19 A. Yes.

20 Q. And did you do your best to answer the questions that
21 were asked of you truthfully and accurately?

22 A. I did.

23 Q. Mr Anwar, you have sought the Chair's permission to
24 address Sheku Bayoh's families and that permission has
25 been granted. Would you like to address his families

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1 now?

2 A. Thank you, Ms Thomson. I'm grateful to you, Chair, for
3 granting that permission.

4 I'm grateful to the Chair for giving me the
5 opportunity to say a few words directly to the loved
6 ones of Sheku Bayoh, some of whom are here today and
7 others who find it too painful to come. Sheku should
8 have celebrated his 41st birthday yesterday, but at the
9 age of 31 he left behind two young sons; a loving
10 partner, Collette; three sisters, Kadi, Adama and Kosna;
11 his mother, Aminata; as well as his brother-in-law Ade,
12 who loved Sheku as a younger brother.

13 In the midst of their grief, Sheku's family were
14 forced to set up a campaign simply to get to the truth.
15 They never wanted the glare of a media spotlight, but
16 were given no choice because of the failure of the most
17 powerful institutions in our country to do their public
18 duty. Since May 2015 you have met with two
19 First Ministers, three Lord Advocates, three Solicitor
20 Generals, four Senior Crown Counsel, one PIRC
21 Commissioner, two Chief Constables, three Deputy Chief
22 Constables and three Justice Ministers. Each and every
23 one of those individuals has paid tribute to you for
24 your tenacity, for your courage, for your dignity and
25 your perseverance, whilst asking your family to place

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1 their trust in them, but so often that trust was
2 betrayed.

3 In over nine years, I have seen the devastation
4 reaped on your family. You have endured years of
5 unimaginable suffering as you fought for justice. I
6 have seen you cry, I have heard your screams of anguish
7 behind closed doors and I have seen how anxiety, fear
8 and frustration has followed every milestone in this
9 case. Each member of your family has suffered from
10 severe depression and breakdowns, compounded by your
11 treatment at the hands of the authority. Kadi, who is
12 not here but watching, your family left Kirkaldy
13 unwilling for your children to grow up knowing that
14 those connected to their uncle's death are free to
15 patrol the streets. Kadi, you left your job at the
16 hospital as a nurse where your brother was pronounced
17 dead. Ade, you suffered from depression and your
18 business failed. Collette, you suffered from
19 a breakdown and moved away from your home with your baby
20 boy unable to walk down the street where 500 yards away
21 your beloved Shek died fighting for his last breath.
22 Sheku's oldest son suffered from a whole number of
23 issues relating to the loss of his father and, Aminata,
24 your only son is gone and you say that your soul is
25 shattered.

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1 I find it deeply shameful that our so-called
2 civilised system of justice gave you false hope, yet
3 despite this you have refused to be bullied, to be
4 patronised or silenced and in his death, Sheku was
5 dehumanised, he was smeared, he was stereotyped, in
6 order to strip him of his right to life, but your
7 family's campaign slogan has been:

8 "The dead cannot cry out for justice. It is the
9 duty of the living to do so for them."

10 You have more than fulfilled that duty and I wanted
11 to pay tribute to your family because without you, there
12 would have been no Inquiry. And I hope that your
13 relentless desire to get to the truth ensures that
14 Sheku, a much loved partner, a son, a brother, an uncle,
15 a friend, is never forgotten. I hope this Inquiry will
16 be a lasting testament to your Sheku and a catalyst for
17 permanent change.

18 Thank you.

19 MS THOMSON: Thank you. Can we look at paragraph 3 of your
20 statement, please, Mr Anwar. Here you say a little bit
21 about your career and go on to say that you trained as a
22 criminal defence lawyer but ran a multidiscipline
23 practice that specialises in public inquiries, deaths in
24 custody and FAIs. You then say:

25 "A significant proportion of my practice, around 50

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1 per cent, is pro-bono campaign where families are not
2 entitled to legal aid funding or the family is taking on
3 sections of the state."

4 Now, for the benefit of those listening who are
5 perhaps not lawyers themselves, what is pro bono work?

6 A. It's where lawyers will work for families for free and
7 there's no state funding.

8 Q. Now, when a person dies in state custody or following
9 contact with the police, what entitlement do their
10 family have to state-funded legal advice and
11 representation?

12 A. In the first instance, there is no automatic legal aid
13 funding in this country, despite promises made over the
14 years. Secondly, often it is a case that families are
15 told to wait until the fatal accident inquiry and then
16 some weeks before you will be granted some form of a
17 fatal accident inquiry, but in our experience often
18 those fatal accident inquiries are some five years later
19 and the concern is from the moment that person dies in
20 state custody the family should have legal
21 representation, so families can have those fighting in
22 their corner advocating on their behalf and asking the
23 questions that we did in the case of Sheku Bayoh.

24 Q. There's no state funding immediately following a death
25 in police custody --

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- 1 A. No.
- 2 Q. -- or following contact with the police? No funding
3 during the course of a criminal investigation?
- 4 A. No.
- 5 Q. During a criminal trial?
- 6 A. No.
- 7 Q. You have explained that there may be some funding during
8 a fatal accident inquiry or perhaps also a public
9 inquiry?
- 10 A. Only if the family reach the means test. So if their
11 income is slightly too much over the line, they will not
12 be funded and we have had that in many situations where
13 families have fought for several years, as in the case
14 of Katie Allan, where we had to fight tooth and nail
15 where we had to get that family who fought for five
16 years after a suicide in Polmont to get funded.
- 17 Q. And that's in the context of a fatal accident inquiry?
- 18 A. Yes.
- 19 Q. You were first instructed by Mr Bayoh's families on
20 4 May 2015 and you initially represented them on a
21 pro-bono basis?
- 22 A. I could see for about seven years.
- 23 Q. This public inquiry was announced in November of 2019
24 and it was set up on 30 November 2020. Correct me if
25 I'm wrong, but am I right to understand that in December

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1 of 2020 a retrospective award was made for the costs of
2 legal work carried out in connection with the Inquiry,
3 which was backdated to the date of the announcement of
4 the Inquiry, so that would be November of 2019?

5 A. I would think so, yes.

6 Q. So you acted pro-bono then from May of 2015 until
7 November of 2019, that was perhaps four and a half years
8 later, would that be right?

9 A. That would be right, but if I can say, the other work
10 that we do is obviously not funded so it's only purely
11 funding for the Inquiry, so we continued to work with
12 regards to campaigning on behalf of the family and
13 having their voices heard in the public domain.

14 Q. And for the benefit of those listening, can you explain
15 the difference between work in connection with
16 the Inquiry and your campaign work?

17 A. Well, the work with regards to the campaign work still
18 continues, the family want justice. It's not simply the
19 case of having the Inquiry. The family have always said
20 if it had been somebody else's son what would they have
21 expected to happen? They would have expected to see a
22 criminal trial take place and that campaign has still
23 continued, whatever the conclusion of this Inquiry is.

24 Q. Are you able to estimate how much of your time you gave
25 pro-bono to Mr Bayoh's families between May of 2015 and

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1 November of 2019?

2 A. It's difficult to say, but I could probably estimate at
3 least 50 to 60 per cent. It seemed to be from morning
4 to night.

5 Q. Sorry, is that 50 to 60 per cent of your working day,
6 your working week?

7 A. Yes.

8 Q. In connection with this one family, this one campaign?

9 A. There would be intense moments where it was night and
10 day, sometimes you would say do a 14-, 15-hour day
11 preparing for meetings with Lord Advocates, Chief
12 Constables, for writing letters, for going to and fro
13 from the family and other days it would be quiet. So it
14 would be peaks and troughs, but I would say a minimum of
15 50 per cent of my time during a working week was related
16 to the Sheku Bayoh family.

17 Q. Can we turn to paragraph 137 of your statement, please?

18 A. Sorry. Which paragraph?

19 Q. 137. It will come up on the screen as well. You say
20 here:

21 "This inequality of arms is an unacceptable
22 curtailment of justice, undermining in the case of
23 Sheku Bayoh and the potential for his family to
24 interrogate the facts and ensure harmful practices were
25 brought to light. The permanent balance between the

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1 bereaved Bayoh families and the state was the most
2 significant injustice of the whole investigation
3 process. What many do not realise is the total
4 inequality of arms that flows from the death of the
5 Sheku. They had no right to legal aid funding. I acted
6 on a pro-bono basis for several years. That brings its
7 own stresses and strains as you pour every resource into
8 trying to hold to account the most powerful institutions
9 in the country. There were times that my firm almost
10 did not survive as I poured everything into trying to
11 stay one step ahead, but vigilant for the battles that
12 lay ahead. This cannot be allowed to pass. This is
13 what happened to the Bayohs, despite our advocacy on
14 their behalf and the spotlight being brought to bear on
15 the criminal justice system. What happens to all those
16 families who do not have that?"

17 You speak here about an inequality of arms, can you
18 explain what you mean by that?

19 A. Well, when somebody dies in police custody or in prison
20 custody, often what happens is the family is told not to
21 worry and they will meet with authorities, with liaison
22 officers, told that don't worry there will be an
23 investigation, it will be robust, it will be
24 independent, it will be impartial. Depending on the
25 background of the family, if they're middle class, they

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1 will ask questions and they will try and ask as many
2 questions. If people are poor, if they're vulnerable,
3 they don't know what to ask. So it leaves those
4 authorities to investigate themselves, and by and large,
5 in my experience of nearly 25 years, all the families
6 that we have represented have been left frustrated,
7 angered and upset, because they feel they have been
8 betrayed, they have been lied to and denied
9 accountability and transparency and the state covers up
10 for itself and you have to fight and fight for every
11 piece of paper and every disclosure of information. And
12 that is inequality because of course the state has an
13 army of lawyers. We have an army of lawyers sat just
14 where I have been sitting for the last two years, all
15 funded, all funded at the public purse. From the moment
16 that there is a death in custody, they are all there and
17 the family of course is not entitled to that because
18 they're told trust in the state.

19 Q. You also speak in this paragraph about the stresses and
20 strains of acting pro-bono. You say there were times
21 that your firm almost didn't survive. Can you say a
22 little more about the stresses and strains?

23 A. By taking on a case that people have described as
24 controversial, brings its own stresses and strains,
25 because you are in the firing line, you have to be the

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1 voice for the family, you constantly have to take your
2 client's instructions, fight on their behalf, keep
3 fighting to raise the issue, but in that process,
4 because you're taking up all your time fighting a case
5 for pro bone, it means I'm not doing other paid work.
6 So there was lots of lucrative work that potentially
7 came in my direction that I would have turn down,
8 because I simply didn't have the time to do it.

9 Many people in my profession say I'm not a real
10 lawyer. Well, I regard this as the law field that I
11 practice in and what it would mean is that I know on
12 several occasions when the family had no resources, they
13 didn't have money and they wanted to give up --
14 I remember Kadi and Ade sent me a letter and I remember
15 when I opened that letter, because they wanted to give
16 up and it was the first six months and I remember
17 bursting into tears because I thought they can't give up
18 and I said "Don't worry, we'll keep going, we'll find a
19 way". And on several occasions I poured my savings, the
20 money I had made for my family, on a number of occasions
21 into to keep going to keep the firm afloat and to keep
22 fighting this case, but of course people outside they
23 like to call human rights lawyers, legal aid lawyers
24 ambulance chasers. It's nothing of the sort.

25 Q. So you have spoken frankly about the financial impact

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1 and the steps that you had to take in order to keep your
2 firm afloat during the period of time that you were
3 working pro-bono. What impact did this have on you
4 personally?

5 A. It had a huge impact. It wreaks havoc on your personal
6 relationships, because you become so focused on fighting
7 this case and trying to see it to the finishing line.
8 I remember when I met with the family I said "We're in
9 for the long haul." I knew that from many years before
10 with the Surjit Singh Chhokar case. I naively told
11 Mrs Chhokar it will take six months to a year when I was
12 a final year law student. It took 16 years, three
13 trials changing the law to get justice and now we're on,
14 what, nine -- over nine and a half years nearly.

15 So on a personal basis, it puts me in the firing
16 line and people confuse what I do because if I'm
17 speaking -- I have taken the oath so I'm speaking
18 honestly and I have never had to say this in public, but
19 my profession, members of my profession, members of the
20 media, see this, they see the colour and they like to
21 say that they don't see colour. What they mean is they
22 see the family's colour and they see my colour and they
23 think it's the same and so you face at the racism, but
24 you are not allowed to respond. I was taught that many
25 years ago by the lawyers for the Stephen Lawrence

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1 family. You will be bated, you will be attacked, they
2 will say they are coming for you, but never respond.

3 So you have to develop a thick skin and people
4 always go it's about Aamer Anwar, but I have never once
5 in 25 years have I ever complained about an act of
6 racism personally in my profession against me. So you
7 have to deal with the arguments, people telling you they
8 know the facts, when actually they don't know the facts.
9 You have to advocate on behalf of the family and I say
10 it causes havoc in your personal relationships, causes
11 havoc, because you're relentlessly trying to get to the
12 end line and people don't understand it.

13 It's lonely and it has been a lonely fight over many
14 years, because there were so many people -- I'm blessed
15 by the team that I have around me, but for so many
16 years, the last 25 years, the battles I have fought and
17 the campaigns I have fought have been on my own. I have
18 often had to go south of the border to seek advice from
19 others to say what do I do? Because when I turned
20 around to the profession here there wasn't anyone, but
21 In the last few years I am blessed by the team that I
22 have around me, but before that there was nobody. But
23 in this case it caused huge strain, because on
24 occasions -- I know in the final occasion before
25 the Inquiry started I had a nervous breakdown.

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1 You know, my life was an absolute mess and
2 everything fell apart. I couldn't let my children know
3 what had happened to me, I couldn't let my family know,
4 I didn't see my mother for some several months, because
5 I had to build myself back up and get ready for what we
6 knew would be the fight of their life for the
7 Sheku Bayoh family, but I also could not let the family
8 know what I had done, but you're pushed into such a
9 position that you're paranoid, justifiably. My anxiety,
10 my paranoia built up over years has meant that it's a
11 form of self-protection, but you are constantly check
12 one thing, check it again, check it again, rewrite the
13 speech, rewrite the words, check with the family, make
14 sure, because you know one slip of the tongue and this
15 system will pull you down, this system will do you for
16 professional misconduct, this system will declare
17 contempt of court, this system will say that's the end
18 of your career and in the worst scenario you're going to
19 prison.

20 So I'm always on the watch for that, always on the
21 watch, making sure I have to -- I always say to students
22 when I do lectures to black or Asian students you have
23 to work ten times harder, you have to prove yourselves
24 ten times harder and, in fact, there's the females in
25 our profession that have also had to go through that

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1 process. And that is the only analogy I can say when
2 people say, oh, there's no racism, it's a level playing
3 field. It's a level playing field for a lot of people
4 here today, not a level playing field for people of my
5 colour or the people sat in the public gallery.

6 Q. Given the financial impact and the personal stresses and
7 strains of undertaking pro-bono work, which you have
8 spoken about in your evidence very frankly, why do you
9 continue to do this work and, in particular, why did you
10 continue to represent Mr Bayoh's families on a pro-bono
11 basis?

12 A. In 1991, in November 1991, when I was a young student
13 who had got involved in campaigning and politics at
14 university, I had always thought I would leave Glasgow
15 and go home to Liverpool and then on to London and I
16 became involved in student politics and I was the victim
17 of a racist attack by Strathclyde Police. I was taken
18 behind a lane, I was chased, I was putting up posters
19 before any of those to say I was committing a criminal
20 offence. It was a criminal offence that was punishable
21 by £21 under the Environmental Protection Act for
22 putting up a fly poster. It wasn't worth the time or
23 the energy for the police officers normally to do
24 anything, but in this case I was chased, pushed to the
25 ground, my head repeatedly slammed off the pavement, my

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1 teeth smashed out and my head pulled back again smashed
2 and I passed out and I was taken back into Ashton Lane
3 and I was laid down and I opened my eyes.

4 My mouth was bleeding, I couldn't feel teeth in the
5 top of my mouth, I was terrified. I had grown up in
6 Liverpool and I thought I am going to be one of those
7 black boys that dies in the back of a police van and I
8 remember that night asking the question from the police
9 officer why and he says before I was kicked in the face,
10 "This is what happens to black boys with big mouths" and
11 I remember those four years I took on a civil action and
12 my lawyer said to me at that time "No black or Asian
13 person has ever won a civil action against the police in
14 this country for a racist attack" and I remember naively
15 saying at that time, and I still hope I have got a bit
16 of naivety, I said "Just because they haven't doesn't
17 mean you can't" and I went on to written that case. And
18 in that time I was arrested some 20, 25 times. I had
19 several court trials, it was constant, it was constant,
20 move house, warrants for your arrest, constant
21 harassment from the police.

22 When I won it, I decided I'm going back to law
23 school. I'm one of the first case and I thought I need
24 to give something back, I need to do something, because
25 I learnt the hard way and I also genuinely believe if

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1 you fight -- justice is never handed to you on a plate
2 by our politicians and, with the greatest of respect to
3 judges, but ordinary people fight for it and they come
4 together. That's why there's trade unionists here,
5 that's why there's politicians here. It's people that
6 come together and I believe that I had something to give
7 back and I wanted to fight, because I learnt -- there
8 was two lessons learnt that night. One was that
9 freedom and justice isn't handed to you on a plate, but
10 the second lesson learnt probably by the police that
11 this black boy's mouth just got bigger as the years went
12 by and I've just --

13 And I have to say what makes me go on, it's the
14 families I represent that inspire me every single day
15 that even when you don't want to get up, when you have
16 your darkest moments, you go you've got to keep going,
17 because they keep going, so you keep going. Who else is
18 going to do that work? Who else in Scotland does this
19 work? People complain and moan about me, but I don't
20 see anybody else volunteering to do it.

21 Q. And, indeed, you conclude this paragraph, paragraph 137,
22 by asking "What happens to all those families that do
23 not have that?" and that I think is a reference to
24 families who do not have pro bono representation. I
25 think you may have intended that as rhetorical question,

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1 but is it a question to which you know the answer?

2 A. The only answer to that question should be I hope that
3 this government realises that families cannot be
4 expected to take on the might of our public
5 institutions, the most powerful institutions in this
6 country, and expect to get answers from them without the
7 right to legal representation. It is unfair, it's
8 unequal, it's an abuse of their human rights and, sadly,
9 we still don't have that. There's no automatic legal
10 aid funding, because I know of course then there will be
11 a line of lawyers who will want to queue up and do this
12 sort of work, but until then it's very, very limited.
13 I could probably count on one hand individuals that
14 would take up these cases in Scotland.

15 Q. Let's look at this juncture at Lady Angiolini's report
16 of the Independent Review of Deaths and Serious
17 Incidents in Police Custody. That was in England and
18 Wales. That's SBPI 00496 published in 2017. If we
19 could perhaps go to page 193 of the PDF and scroll down
20 to paragraph 15.2.

21 This is a chapter headed up "family support", where
22 Lady Angiolini states:

23 "The involvement of families in process should not
24 be seen as a matter of being sympathetic or benevolent
25 to bereaved relatives. It is the duty of the state to

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1 ensure their participation is meaningful. In order to
2 facilitate such participation, families need free legal
3 advice, assistance and representation from the earliest
4 point following the death and this should be non-means
5 tested"

6 Is that a sentiment with which you would agree?

7 A. Absolutely, 100 per cent. Both the Bayoh family and the
8 many families I have represented over the years said
9 they don't care about the tea and sympathy and the
10 biscuits that they have met with at meetings and the
11 holding of hands and the offer of tributes to their
12 dignity and their courage. What they want is the truth.
13 They want accountability and fundamentally they want
14 justice and until we have that change in this country,
15 it's going to be difficult to get to.

16 Q. Let's move forward to page 195 and look at paragraph
17 15.7. Here Lady Angiolini records:

18 "When an individual is arrested and taken into
19 custody, certain legal rights, including the right of
20 access to legal advice, flow from that status. The most
21 serious prospect that could ever arise for an arrestee
22 from the fact of being arrested is death and yet,
23 paradoxically, that event does not trigger the provision
24 of immediate access for next of kin of the deceased to
25 legal advice. The immediate aftermath of a death in

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1 custody is the point of the process, more than any
2 other, when families are in urgent need of advice,
3 support and information about their rights, and the
4 processes that will ensue over the coming days and
5 months."

6 Again, is that a statement with which you would
7 agree?

8 A. Absolutely.

9 Q. Let's look at the recommendation that Lady Angiolini
10 makes on page 238 at paragraph 33. This is the list of
11 her recommendations and recommendation 33 reads as
12 follows:

13 "In order to facility their effect participation in
14 the whole process, there should be access for the
15 immediate family to free non-means tested legal advice,
16 assistance and representation from the earliest point
17 following the death and throughout the pre-Inquest
18 hearings and Inquest hearings."

19 A reference, of course, to the English procedure.
20 Again, would you agree with that recommendation?

21 A. Absolutely.

22 Q. I want to move on to ask you some questions about your
23 first meeting with the Bayoh families and I wonder if we
24 can look at paragraph 40 of your statement. Again,
25 we'll bring that up on the screen. I understand that

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1 you were instructed by the families on 4 May, Mr Anwar,
2 but your first in-person meeting with them was on 5 May,
3 the next day?

4 A. Yes.

5 Q. And here in your statement you say:

6 "One of the things that still stands out for me is
7 that at that meeting with the Bayoh family I said to
8 them 'The elephant in the room will be racism' because
9 the family were speaking about racism. It has very much
10 occupied their minds. They believed it's because he was
11 black that he died. They believe that the overwhelming
12 force that had been used on him was because of the
13 colour of his skin. They believe that he was being
14 criminalised in his life in order to justify his death
15 and when I said that we could not publically mention the
16 word 'racism', there was an outburst in the room. I
17 tried to explain, because of the lessons I learnt from
18 the past, about how the system just comes tumbling down
19 and they will say 'Aamer is playing the race card.
20 Where is your facts for it?' that we must bide our time,
21 but I wrongly assumed that the crown would have learned
22 lessons and the issue of race would be front and centre
23 in any investigation. How wrong I was."

24 If we can continue and look at paragraph 41 as well,
25 please:

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1 "I didn't know until very recently that when the
2 family actually left that meeting they thought about not
3 instructing me because they were so angry and upset that
4 I said we're not going to address the issue of race
5 publically."

6 I would like to ask you some questions arising out
7 of these two paragraphs. "I said that we could not
8 publically the word 'racism'; what do you mean about
9 "publically" in this context?

10 A. I meant as in we, the family wanted to go public, they
11 wanted to utilise the media, they wanted to meet the
12 politicians, they wanted to meet the Lord Advocate, they
13 wanted to meet the Chief Constable. In all these
14 engagements the media would be present, they would be
15 public meetings, they wanted to campaign and they wanted
16 to get to the truth.

17 Within the first 24 hours, the family thought there
18 was something seriously wrong. They had been told five
19 different versions of events and for me very much I had
20 learnt my lesson from 20-odd years previously, 15 years
21 previously, in the Chhokar case, where 1998 Surjit Singh
22 Chhokar is murdered. I come out on behalf of the family
23 at the STUC headquarters with the backing of the
24 Lawrence family and we call it a racist murder. It took
25 16 years for us to prove the racial motivation, two

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1 collapsed trials, an inquiry that we called a
2 "whitewash", an inquiry that condemned me for
3 manipulating the family, which simply wasn't true, said
4 that I played the race card in some respects, many
5 people said, newspapers, et cetera. I was called a
6 liar, I was humiliated publically and, again, I couldn't
7 say anything publically.

8 I didn't defend myself and it took till 16 years
9 later for it to be proved it was a racially motivated --
10 for me, I had learnt my lessons over the years once
11 I had trained as a lawyer that don't mention, because
12 people assume that I shout my mouth off and go "It's
13 racist, it's a racist murder." Well, in all the cases I
14 haven't done that. You have mentioned the cases there,
15 Chhokar, Simon San, Imran Khan, many of the race cases
16 in Scotland that I've been at the heart of campaigning
17 and over those years, I have learnt the lesson to say,
18 as a lawyer, we must see the facts. I also incidentally
19 genuinely said to the family trust in the Crown Office,
20 trust in the PIRC, they will be robust, they will be
21 transparent, they will accountable, because obviously a
22 year later I had worked very closely with the crown,
23 with the present Lord Mulholland, Lesley Thomson, as
24 Solicitor General, to get and campaign and justice for
25 the Surjit Singh Chhokar family, so I genuinely believed

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1 that the system had changed and I said trust in them,
2 but bit by bit that trust was shattered and eventually
3 some four or five months later the race word came to the
4 fore.

5 I kept saying "They will do it, let's just see what
6 they do. It's not for us. They have to run the
7 investigation." After all, I didn't have the resources,
8 I didn't have access to the information, I didn't have
9 the disclosure of all the documents we now have in which
10 they lied and told us we're doing this and we're doing
11 that. It's only now we know they didn't investigate
12 race, it never even came into their sights, it's only
13 when I kept raising it then they went "oh, we'll tell
14 them to investigate it" and that's when we knew it's too
15 late.

16 Q. Go back to paragraph 40, if we could have that on the
17 screen again, please, the bottom part of that paragraph
18 where you say:

19 "I tried to explain because of the lessons I learn
20 from the Chhokar family..."

21 When you say in your statement, Mr Anwar, "they'll
22 say Aamer is playing the race card", who is they?

23 A. They are the Crown Office, the PIRC, the police and the
24 Scottish Police Federation, because it all seemed to
25 work hand in hand when it came to the so-called

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1 investigation into the death of Sheku Bayoh. They all
2 seemed to work. If one institution can't do it, they'll
3 pass the information on to the other. They'll run along
4 and say "They're ones who can deal with this" in the
5 media. We might not be able to say it, but we can get
6 the Scottish Police Federation to say it. If the
7 Scottish Police Federation can't say it, somebody else
8 will say it.

9 So "they" to me as a person of colour and
10 represented the family was that the treatment very much
11 was the same from all parties concerned, because it
12 wasn't the tea, biscuits and sympathy, some were very
13 good at that, others were not, some were not extremely
14 arrogant. The problem was that all of them
15 fundamentally failed to deliver justice, and failed to
16 deliver truth and accountability to the family, so
17 that's why it becomes "they". The criminal justice
18 system in this country is institutionally racist.

19 Q. Let's look at paragraph 42. This follows on from the
20 passage where you explained that you told the family
21 that race, racism were not to be mentioned publically
22 and you explain here:

23 "I did it tactically for a reason. I thought let's
24 gather the evidence. Let's see how the COPFS and PIRC
25 deal with the issue of race. After all, it was their

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1 responsibility. It should not have to be me to have to
2 constantly remind them of their duties and good
3 practice. They had to be given a chance, but, as I said
4 repeatedly in public, the responsibility rested in the
5 hands of the crown and the PIRC to consider race.
6 Bearing in mind that the issue of race had been flagged
7 up on the very first day by the family directly to the
8 police and then to the FLOs. It's not as if they see
9 it, they'll deal with it. No, it should be a primary
10 issue. It was recognised in Stephen Lawrence it should
11 be primary. It's not rocket science. A black man is
12 dead on the street so consider if his colour had a role
13 to play. After all, not one police officer could resist
14 using the word 'black' on multiple occasions in their
15 statements. It expected the family to believe on their
16 return to the station and then the canteen that not one
17 person considered the issue of race."

18 When you say at the beginning of this paragraph, "I
19 did it tactically for a reason", is that a reference to
20 your advice to the family not to mention race
21 publically?

22 A. Yes.

23 Q. And can you explain what you mean when you say "I did it
24 tactically for a reason"?

25 A. I knew that if they mentioned the word "race" or I

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1 mentioned it on behalf of them, the sole focus would
2 once again become me. It would be, as what I was called
3 for a years prior to this case, "race row lawyer, race
4 lawyer Aamer Anwar," rather than "human rights lawyer".
5 So I thought, first of all, it's not about me, it's not
6 about we don't have the evidence, we had said to the
7 Lord Advocate, we had said to the PIRC, "We want a
8 robust transparent investigation" and the family
9 repeatedly -- I said at press conferences the family
10 have faith in the PIRC, the family have faith in the
11 Crown Office to carry out a robust and transparent
12 investigation, because, ultimately, I explained to the
13 family there is only one institution that can deliver a
14 prosecution of these officers: it is the Crown Office.
15 So of course I had to say to the family "Trust in them.
16 This is years later. Of course they have changed. We
17 will get justice and the family will get justice."

18 So tactically for a reason I thought it's
19 presentation and it's also extracting information from
20 the crown and from the PIRC and saying to them the
21 family is backing you by putting pressure on the crown
22 and we're saying the caveat is "you cannot fail, you
23 cannot fail again, like you have done in every other
24 case that involved a person of colour in this country."

25 Q. This was a tactical decision, a deliberate decision to

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- 1 sit back and see how the crown and the PIRC addressed
2 the issue of race?
- 3 A. It wasn't ever a case of sit back, because I think, as
4 the Inquiry has seen, from the very offset my letters
5 were robust, they were comprehensive, I almost felt like
6 I was leading the crown by the hand and saying what
7 about this, what about that, what about that and by and
8 large they would ignore it and then we would try again
9 and try again and it would be weeks upon weeks of trying
10 letters and meetings to do that, but tactical for a
11 reason as in it's their job to investigate, it's not my
12 job. I was a pro-bono lawyer, I didn't have a team of
13 lawyers. I do have a team over the years also work
14 pro-bono, came around, but in the beginning there was
15 nobody else. It was me on my own.
- 16 Q. Let's look at paragraph 26 of your statement, please.
17 Before I read this paragraph out, you refer to two
18 individuals in this paragraph, Doreen Lawrence, she
19 I believe is the mother of Stephen Lawrence and Stephen
20 was murdered in a racially motivated attack in 1993, and
21 you refer too to Imran Khan KC, who when he was a
22 solicitor, I believe, represented the family of
23 Stephen Lawrence during the public inquiry; is that
24 right?
- 25 A. That's right.

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1 Q. Just to give context to what you say and you also
2 mention Michael Mansfield, but there is an explanation
3 in the paragraph as to who he is.

4 A. They still represent Doreen.

5 Q. Yes:

6 "Similarly, Doreen Lawrence's senior counsel,
7 Michael Mansfield KC, said to me when I started the
8 Chhokar campaign:

9 "'It's fine for me. I'm white, I'm middle class.
10 I'm seen as a knight in shining armor who rides to the
11 rescue of these poor vulnerable black people, but when
12 you do it, Aamer, or Imran does it, you're playing the
13 race card. You must prepare to be attacked and you will
14 always be accused of having got an ulterior motive.'.

15 "I have to say this has been my experience to date.
16 The treatment, the exclusion by members of my
17 profession, combined with constantly being on high alert
18 as you wait to be falsely accused, vilified or
19 humiliated, but never able to speak to out on what I
20 believe to be racism, because otherwise I fall into the
21 trap by taking the bait and allow powerful forces, such
22 as the Scottish Police Federation, will say, 'Oh, look,
23 he's playing the race card. It's all about Aamer" or,
24 for example, accused by a good friend of theirs, Former
25 Justice Minister Kenny MacAskill of using the Bayoh case

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1 to keep my profile high, adding that the ongoing
2 controversy was good for business."

3 So you speak here of your experience of being
4 excluded, falsely accused, vilified, humiliated and
5 unable to speak to out about what you believed to be
6 racism and you have of course represented families of a
7 number of individuals who have lost their lives in
8 circumstances where race was or may have been a factor
9 and in your statement you mention some of the families
10 that you have represented including, of course, the
11 family of Surjit Singh Chhokar.

12 So your experience is broader than your experience
13 of representing the families of Mr Bayoh. I would like
14 to ask what impact your experience has had on you
15 personally?

16 A. It's like I say that from the moment I became a lawyer I
17 felt I was under attack. Even people who had nothing to
18 do for instance with the Chhokar case, it seemed as
19 though every member of my profession wanted to have a
20 say and tell me how I was wrong, tell me how this is not
21 how we do things in this country, lawyers don't stand up
22 and criticise the system. I would walk into rooms and I
23 felt that feeling even the first day I walked into this
24 Inquiry and I walked through there to take my seat there
25 and I looked at my colleagues and how they look at you

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1 and it's a feeling I have had my whole life and my
2 profession people say "you're paranoid". It's not
3 paranoia, it's served me right, because I know exactly
4 how they talk about me, I know exactly how they look at
5 me and I know what they say behind my back and any
6 opportunity to put the boot in, they do it and at times
7 when you're not able to respond.

8 And as I said, Imran Khan had given me a piece of
9 advice at the start of the Chhokar case. He said you
10 will be attacked, they will come for you, do not
11 respond, do not be bated because you're falling into the
12 trap of what the state does, because it will become
13 about you, rather than the family. On so much
14 occasions, so many occasions and I quoted there
15 Kenny MacAskill, who was the former Justice Minister,
16 saying keep my profile high and good for business. How
17 little Mr MacAskill did he know. I'm not funded by
18 millions of his pounds by the Scottish Police Federation
19 to represent the police officers. We were doing it
20 pro-bono. It wasn't good for business, it was bad for
21 business, and that humiliation of constantly having to
22 walk through life and being told you're not a real
23 lawyer or you're just playing the race card.

24 Saying those words "playing the race card" is racist
25 in itself, because they wouldn't do it to

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1 Michael Mansfield and that's the point. If lawyers sat
2 there were picking up awards, white lawyers, and
3 fighting for a black family, they would be feted as
4 human rights campaigners, but someone like me, someone
5 like Imran Khan, constantly attacked, told you have an
6 ulterior motive. I am going it's not an ulterior motive,
7 I am doing my job to the best of my ability and I have
8 continued to try and do it, despite the attacks and the
9 vilification and it has had a huge toll. You can tell
10 probably from what I'm saying it's -- I am constantly on
11 alert and worry.

12 I have switched off my mobile phone commentary on
13 Twitter, I have the most following on Twitter of any
14 solicitor I think in the UK, and yet I have to turn my
15 commentary off, because no matter what I say, you switch
16 it on and you are attacked, you are abused. I have had
17 death threats over the years and whilst I can't say
18 individuals in the police of the Federation are
19 responsible, the fact that the whipping up of the abuse
20 and the racism against my puts me in the firing line
21 because people go, in this present period, where human
22 rights lawyers are being attacked, some attempted
23 murders of individuals and I have had to move house, I
24 have had my life threatened. And I'm at a stage where I
25 have my children, who are of an age who can now read

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1 social media, I have protected them my whole life, I
2 have not wanted them to know what their father has to
3 deal with, but they can read for themselves now and they
4 ask me questions.

5 I have my mother who I constantly have to tell, who
6 worries herself sick from that night when I was attacked
7 by the police. I say mum "don't read it, don't read
8 it," and then when the death threats come in and, of
9 course, who is it I have turn to to ask for help? It's
10 the police. And I remember saying to Iain Livingstone,
11 who I built up a relationship over many years with,
12 former Chief Constable, saying to him one time when they
13 installed a panic alarm, because there was a direct
14 threat to me, and I said, "Your police officers won't
15 come," and he said "What do you mean? Of course we'll
16 come." I went "They'll find out it's me, they'll wait
17 30 minutes or an hour and it will be too late."

18 So I walk through those streets and I know that I
19 spend my life thinking today is it my last day? When
20 somebody comes up to speak to you to say something to
21 you, I think is this it? Is this the moment that I lose
22 my life? That's a huge burden that I have on my
23 shoulders and I have never ever been able to publically
24 say that.

25 So that's the impact of these cases and people don't

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1 seem to understand what it does to you as a lawyer, but
2 more so as a human being, more so as a father, more so
3 as a partner and as a friend in relationships, just how
4 you with on the day to day. You're constantly upset,
5 you wake up with this cloud over you, you are worrying
6 all the time.

7 Q. And again, is this the sort of experience that fed into
8 you advice to the families of Mr Bayoh not to mention
9 race publically?

10 A. Absolutely, because I did not want them to be attacked.
11 I wanted the crown to do its job. That's what they're
12 paid to do, to do their public duty and investigate it
13 to the best of their ability. That's what I believed
14 they would do and how wrong I was.

15 Q. I would like to put to you for comment evidence that
16 we've heard from Deborah Coles. This is in her Inquiry
17 statement, but it's a short paragraph. I don't think we
18 necessarily need it on the screen, although if we have
19 it handy, It's SBPI 00607. Wonderful. And it's
20 paragraph 28.

21 I will read the paragraph short, but we'll see
22 within that paragraph Ms Coles says:

23 "The question of whether racism had contributed to
24 the treatment of a loved one was invariably in the minds
25 of black families, but not one that most felt they could

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1 actually raise, because they feared being seen to play
2 'the race card' and provoke additional hostility in a
3 process that they experienced from the outset as being
4 hostile and adversarial. Raising the issue of race,
5 families said, could elicit accusations of having a chip
6 on you shoulder, being militant, seen as an angry black
7 family."

8 Does that fit with you own experience?

9 A. 100 per cent.

10 Q. And again if I could perhaps take you to the evidence of
11 Marcia Rigg. If we have her statement to hand, it's
12 00630, paragraph 108. Thank you. If we could scroll
13 down a little, please. There we are. Three lines from
14 the top of the page:

15 "My family felt it was obvious racism was there, but
16 we decided not to raise the issue of racism because we
17 didn't want to be labelled with a chip on our shoulder
18 and to be using the race card."

19 And Marcia Rigg of course is the sister of the late
20 Sean Rigg. Again, how does her experience fit with you
21 own?

22 A. It matches it completely, 100 per cent agreement every
23 word that she said.

24 Q. I would like to move on now to look at a press statement
25 that was issued on behalf of the Bayoh families

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1 following a conference on 14 May 2015, and a good
2 starting point, I think, would be to return to your
3 statement and look at paragraph 203. Let's begin by
4 reading this paragraph, Mr Anwar, and then we'll look at
5 the press release itself:

6 "I have been asked about the Bayoh family press
7 conference on 14 May 2015 and the subsequent press
8 release from the Scottish Police Federation. We
9 arranged a press conference to take place on
10 14 May 2015, which was around the corner from
11 Crown Office in Chamber Street. I read out a statement
12 which was subsequently issued as a press release. I was
13 very careful in what I said. I have explained to the
14 family that I'm not going to mention the word 'race',
15 that we have to give the PIRC and the crown the
16 opportunity to carry a full scale investigation without
17 being hindered or speculated upon. This was a live
18 investigation, I was very much viewing it that this was
19 a live criminal investigation, nothing must be done to
20 prejudice it. At that point in time, I don't know what
21 the position is, because the police officers haven't
22 given statements. I have my own suspicions. I believe
23 overwhelming force has been used. I believe he's in a
24 mental health crisis from what I have read, but I still
25 don't know."

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1 So let's look at the press release. It's AAC 00387.
2 This is four pages long, but quite large print and
3 double-line spacing so what I would like to do is go
4 through at it with you quite quickly. I think it's
5 important that we capture all of this press release. So
6 we see this forms part of a press pack for the
7 conference on 14 May, and you note that a meeting will
8 take place with the Lord Advocate at 1.30 am in private
9 and that a statement would be made following the
10 meeting. Was that the order of events? Did the meeting
11 take place first and the press conference happen
12 afterwards?

13 A. Yes.

14 Q. You go on to list the family members who would be
15 present with you at the press conference and then there
16 is the text of the statement itself. You introduce
17 yourself as the solicitor acting on behalf of the
18 families, and you introduce Collette and Kadi. You then
19 begin just at the bottom of the screen as we see it just
20 now by saying:

21 "I would like to start by making a statement on
22 behalf of the family. Sheku Bayoh was a well liked,
23 peaceful and healthy young man who at the age of 31 had
24 no previous history of violence. It would appear he
25 left his home sometime between 7.00 and 7.30 am, walking

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1 an approximate distance of a mile. The family is
2 advised that police officers, who were in the midst of a
3 shift change at Kirkaldy Police Office, responded to an
4 alert following calls from members of the public.

5 "We are advised that some six police cars went to
6 the scene and that a minimum of nine uniformed officers
7 engaged with Mr Bayoh. Of course any use of force must
8 at all times be lawful, necessary and proportionate in
9 the circumstances. Reports of any officer having been
10 stabbed are simply untrue. Mr Bayoh was detained and
11 restrained with handcuffs to the rear and leg
12 restraints, following which he lost consciousness. CPR
13 was attempted at the scene, an ambulance called and he
14 was officially pronounced dead at Victoria Hospital at
15 9.04 am.

16 "Following Sheku's death, five different versions of
17 events were given to the family by Police Scotland
18 officers over the course of 10 hours, until they were
19 finally told he had died in police custody. That is a
20 matter of grave concern. Sensitive and thorough
21 handling of the investigation in the golden hours
22 following the death is critical to evidence gathering
23 and setting the direction quality of the investigation
24 to follow. The family has grave concerns with regards
25 to what happened on Sunday. Furthermore, the family

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1 does not understand why the officers involved in
2 engaging with Sheku Bayoh were not immediately suspended
3 without prejudice after his death. It is a matter of
4 wider public concern that officers remain at their desks
5 or in contact with the public pending the outcome of the
6 investigation into death in custody. For the Chief
7 Constable to suspend the officers without prejudice is
8 not a question of prejudging the outcome of the
9 investigation, but ensures neutrality, integrity of the
10 investigation, transparency, as well as protecting
11 officers involved in such incidents.

12 "The Bayoh family understands that neither PIRC nor
13 the Lord Advocate can enforce such a decision and would
14 strongly urge Chief Constable Stephen House to take full
15 control of the situation. The family welcome the Lord
16 Advocate's instruction last on Tuesday for PIRC to take
17 over the whole investigation into the death of
18 Sheku Bayoh. However, they were saddened to learn that
19 some 11 days after Sheku's death that Police Scotland
20 has still not provided all the essential information to
21 PIRC's investigation team. This approach simply beggars
22 belief and prolongs the agony of Sheku's family.

23 I would strongly urge police officers to cooperate with
24 the investigation to help provide Mr Bayoh's family, the
25 Crown Office and the PIRC with accurate information

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1 about how and why Mr Bayoh died.

2 "The family are trying to remain openminded, but
3 neither the crown pathologists or their own independent
4 pathologists can reach a conclusion into the cause of
5 death until a full account of what happened that morning
6 is given by the police officers who detained Mr Bayoh."

7 Sorry, if we can scroll a little please, thank you.

8 "There has been a great deal of speculation in both
9 papers and the local community, none of which is helpful
10 in a live inquiry. The family retain full confidence in
11 the PIRC and would urge both police officers and members
12 of the public with information to come forward and fully
13 cooperate with PIRC's investigation.

14 "The findings of the postmortem are not complete and
15 could take several more weeks to complete. We have
16 instructed some of the UK's most eminent pathologists to
17 act independently on behalf of the family. They will
18 offer every assistance to the Lord Advocate's team as we
19 are aware that such deaths in custody are a rare
20 occurrence in Scotland. Today the family are putting
21 their total faith and trust in the Lord Advocate and
22 PIRC. There are many grave concerns that the family
23 will express in private to the Lord Advocate later on
24 this morning, which cannot be mentioned due to a live
25 inquiry.

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1 "The Crown Office, Police Scotland and PIRC must now
2 act decisively to restore confidence and satisfy the
3 need for a robust and demonstrably independent
4 investigation. Nobody should be allowed to evade
5 accountability or frustrate the investigation process.
6 Sheku Bayoh's family will not rest until they have the
7 truth."

8 So that was the text of the press statement that you
9 made on 14 May 2015 on behalf of Mr Bayoh's families.

10 Did you say anything beyond what is recorded in that
11 statement? Did you go off script at all?

12 A. No, I don't believe I did, I tried not to. I do
13 remember I think it was a journalist from The Sun and
14 from The Guardian that tried to ask me about whether
15 race or colour had anything to do with it. I said, "We
16 refuse to speculate, there must be a full
17 investigation."

18 Q. I think you mention that in fact in your statement at
19 paragraph 204, so if we could perhaps have that on the
20 screen. Paragraph 204 is effectively your commentary on
21 that press release. You say:

22 "The content of our press release is not
23 controversial. I have not speculated, it is not
24 hyperbolic. It's not exaggerated. The family is
25 openminded. I'm not blaming the officers. I'm laying

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1 out facts as are known publically. I am not relaying a
2 narrative of the events of what happened; I refuse to
3 engage with that. I ask for police officers to
4 cooperate, people to come forward and I express concern
5 about officers not being separated and what goes on. I
6 don't find mention the word 'race'. In fact, when I was
7 sitting on the platform, I was asked by two journalists
8 about racism. I said 'I'm not going to comment on that;
9 I'm not here to speculate'."

10 And we have looked at the press release and race
11 doesn't feature in the press release at all.

12 If we could scroll down to paragraph 206, you say
13 here that within minutes of you press release ending
14 that Scottish Police Federation and their lawyer were
15 publically issuing a vivid description of what they
16 claimed return to have happened.

17 We will return to this paragraph in a moment, but
18 before we do that, let's look at the actual text of the
19 SPF press release itself. That is COPFS 05339. So we
20 see that the -- or we'll see shortly that the content of
21 the press release is in an email. Sorry, if we could
22 scroll up again just a moment and stop there, thank you.
23 We see it is dated 14 May and timestamped at 12.48.
24 And, again, if we scroll down to the blue text, this is
25 the text of the press release issued on behalf of

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1 PBW Law:

2 "'The rights of the police must be defended' says
3 top lawyer. The legal adviser to the Scottish Police
4 Federation has strongly criticised statements made at a
5 press conference in Edinburgh by the family and lawyers
6 of the late Sheku Bayoh. Professor Peter Watson of
7 PBW Law said:

8 "'I am disturbed about the unhelpful and
9 ill-informed comments being made by the family lawyer.
10 Whilst it is deeply regrettable that Mr Bayoh lost his
11 life, I would ask the media and public to remember that
12 a petite female police officer was chased and then
13 subjected to a violent and unprovoked attack by a very
14 large man, who punched, kicked and stamped on her. The
15 sister believed that she was about to be murdered and I
16 can say that but for the intervention of the other
17 officers, that was the likely outcome. The family's
18 advisers appear to believe that the police do not have
19 the same legal rights as other members of the public,
20 they do, and I intend to defend those rights robustly.
21 We all seek the truth and part of that truth will lie in
22 part in the postmortem and toxicology reports which will
23 follow in due course. Calls for the suspension of the
24 officers serve no purpose and do nothing but add
25 unhelpful rhetoric in a difficult situation for all'."

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1 So I wanted to look at the actual text before we
2 return to paragraph 206 of your statement in which you
3 offer comment on the text here. So let's look at you
4 statement and I'll perhaps ask you some further
5 questions after we have done that.

6 So paragraph 206, so scroll perhaps to the top of
7 the next page. You begin here by quoting from the press
8 release and it's Peter Watson's statement:

9 "I'm disturbed about the unhelpful and ill-informed
10 comments being made by the family lawyer."

11 You say:

12 "What's he disturbed about? What was unhelpful and
13 what was ill-informed? There's absolutely nothing in
14 that statement that he issues that on that he could know
15 was ill-informed. He has assumed what I am going to say.
16 It was an attack on my professionalism, on my
17 credibility and integrity. Ultimately, it was an attack
18 on the family, is the way I see it. It was to try and
19 shut them down."

20 So before we go any further, let me ask you some
21 questions about what is written in that part of that
22 paragraph. You say that there was nothing in your press
23 release that was ill-informed, and that you consider
24 that assumption had been made about what were you going
25 to say. And you had said at the beginning of paragraph

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1 206 that this press release was made within minutes of
2 yours.

3 Is it your belief that the statement was made before
4 Mr Watson had heard your statement to the press or
5 after?

6 A. I can't be clear about that, but what I would say is
7 there was actually one that I know was made around about
8 1.15, 11.20, which I think was Brian Docherty from the
9 Scottish Police Federation. The terminology that
10 Mr Docherty used was practically identical in parts to
11 that made by Mr Watson, but it seemed to me that they
12 had a preprepared script, because this was coming from
13 Jack Irvine's Media House, Peter Watson, Calum Steele,
14 Brian Docherty and others were obviously involved in
15 putting together a press release. And I for the life of
16 me thought they're just assuming this is Aamer Anwar of
17 2000 coming out on the steps of the High Court,
18 attacking the crown, attacking the police and thinking,
19 "here he goes again. He'll play the race card. He'll
20 be ill-informed, unhelpful, he'll be on the attack" and
21 I was nothing of the sort, because I was talking about
22 wanting witnesses to come forward, for police officers
23 to cooperate. I was saying that any force used, which
24 was helpful, because I said police officers are of
25 course entitled to defend themselves, but any force used

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1 has to be lawful, legitimate and proportionate.

2 I mentioned fact that despite the police source that
3 was never found that no police officer was stabbed,
4 which is always the case after a death in custody lies
5 are told and then all of a sudden nobody can find out
6 who from the police told them that. And I said that
7 police officers should be suspended without prejudice.
8 I could not for the life of me see how these seven,
9 eight, nine officers were put in the canteen together
10 after Sheku's death, how that was helpful? If they were
11 members of the public and one of them was a potential
12 accused, there is no way they would be put in a room
13 together, they would be separated and taken in for
14 questioning and in fact that was at the case on the day.
15 Collette was taken in separately, Saeed was taken in
16 separately, Martin was taken in separately, his partner
17 was taken in separately. They had facilities for them,
18 but they put all the police officers together.

19 And Mr Watson -- if there was anybody who was
20 unhelpful and ill-informed, it was Mr Watson, because he
21 set out a narrative on 14 May when the multiple police
22 officers that he was representing all of them hadn't
23 given a statement. So it was almost like here's the
24 party line, this is what happened, and we're sort of
25 wondering what the hell is going on, because this is

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1 already put in the public domain, when all we're asking
2 for is police officers to cooperate and give their
3 statements if they're police officers and of course we
4 are told pretty much from the first couple of days that
5 the police officers were told that they had witness
6 status and we were constantly asking everyday, have they
7 given a statement, have they given a statement, because
8 of course it's the police officers that would be
9 speaking about what happened and if they had nothing to
10 hide, then they had nothing to fear. And with the
11 greatest of respect to Mr Watson, police officers are
12 not the same as members of the public. So there was
13 nothing unhelpful, nothing ill-informed there was no
14 rhetoric in what I had to say.

15 Q. You say in your statement that you saw this as an attack
16 on you professionalism and you credibility and
17 integrity. Can you explain why you saw it that way?

18 A. If any lawyer sat back there representing the PIRC, the
19 Federation, the Chief Constable, the Lord Advocate, the
20 Crown Office were told that their comments were
21 ill-informed, they would be upset I think
22 professionally. If they were told that they were using
23 rhetoric, they would be upset, they would be kicking up
24 a stink about it, but it seemed to me as though anything
25 can be said about me publically. I can be called a

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1 liar, I can be called I am playing the race card, as I
2 down the line eventually am, ill-informed comments and
3 it's on me and I'm going what do? Well, what do I do?

4 It's a case of I can't get into, you know, a boxing
5 match with Mr Watson. I can't do that publicly, because
6 I had to remain focused on the family cannot be diverted
7 into that. We maintain the line trust in the crown and
8 the PIRC to carry out an independent, robust,
9 transparent investigation for the police officers to
10 cooperate, and give their statements. The family wanted
11 to know that the police officers have done that and of
12 course they weren't, but meanwhile they're seeing this
13 narrative being played out how a police woman would have
14 been murdered, subjected to a violent and unprovoked
15 attack, by a very large man, who was 5 foot 10, 12
16 stone, ten pounds and was smaller than me at the time,
17 and I was going there was actually two officers that
18 were bigger than him, 6 foot 4, up to 25 stone each,
19 which we weeks later found out so.

20 And he says "But for the intervention of other
21 officers, that was the likely outcome" How did
22 Mr Watson know that? Full investigation hadn't carried
23 out. How did he know that? How informed was he? Was
24 he sitting there? Was he watching from the window? Was
25 he a member of the public or did he just simply take the

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1 script from his officers who of course are involved in
2 the death of Sheku Bayoh?

3 Q. Returning to your statement, the passage that you have
4 just alluded to and the comment made by Mr Watson is at
5 the bottom of paragraph 206, but if we could read on to
6 the top of 207, please:

7 "He is expressing an opinion as to the potential
8 outcome. It begs the question as a lawyer why is he
9 personally commenting. It's not about his personal
10 belief. We don't even have statement at that time from
11 the police officers."

12 And I think the personal comment that you were
13 critical of is where Mr Watson says:

14 "The police officer believes she was about to be
15 murdered and I can say that but for the intervention of
16 the other officers, that was a likely outcome."

17 Help me to understand why you're critical of that
18 comment?

19 A. Well, I think it wasn't just that -- I don't come it was
20 just that comment. I think it was all of it. It's about
21 violent unprovoked attack, because of course for years
22 the family have had to deal with until the public
23 Inquiry came it was portrayed in public that
24 Sheku Bayoh, "a very large black man", subjected police
25 officers to a violent and unprovoked attack and people

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1 have always assumed that Sheku was the first to go on
2 attack and of course we now know that the real facts are
3 that's not true. He was subjected to CS spray he was
4 subjected to Pava spray, he was hit with a baton, he was
5 shoulder barges and then after that there is an incident
6 with Nicole Short. So that is the first part, the
7 setting of the scene. Not that this comes afterwards,
8 because that's almost what's being portrayed and then it
9 is to say:

10 "She was about to be murdered and I can say but for
11 the intervention of the other officers, that was the
12 likely outcome."

13 How did he know that and why was it -- why would
14 that not be seen as interfering with a live
15 investigation for a lawyer to stand up in the public
16 domain and put those out as a narrative of the facts
17 when the PIRC are busy trying to get statements from
18 those police officers? Why would you put that in the
19 public domain? And it's a standard tactic of course
20 used by -- up and down this country by police lawyers
21 get that out first of all and then you spend time as the
22 family did having to defend Sheku in his death, having
23 to say he wasn't armed, he didn't stab a police officer,
24 he was hit first by CS spray, Pava spray, he was one who
25 was hit with a baton and then there's a response. So is

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1 it violent? Is it unprovoked? That's what the job of
2 the PIRC was to find out.

3 Q. Let's return to paragraph 207, four lines down:

4 "The press release continues and alleges: 'The
5 family's advisers appear to believe that police do not
6 have the same legal rights as other members of the
7 public'."

8 And you say:

9 "This is completely and utterly untrue. At that
10 time, I was representing multiple police officers and
11 had acted for the Scottish Police Federation in the past
12 and at that time in my statement I had said '...
13 suspended without prejudice,' ' ... Protecting their
14 rights.' They have rights, so I didn't say that."

15 Mr Anwar, are you aware of anything in your
16 statement that could have been taken as suggesting that
17 police officers do not have the same rights as members
18 of the public?

19 A. Absolutely not. I said "suspendd without prejudice".
20 They of course have a right to silence. They should
21 have been separated. They were told in fact -- unlike
22 other members of the public, they were told almost
23 straightaway that they had witness status and then for
24 32 days the representatives held out and it was a public
25 dingdong that went on between the PIRC and we had to

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1 keep going backwards and forwards to saying to PIRC it
2 would be helpful rather than us on behalf of the family
3 having to say they haven't given statements and the PIRC
4 was saying to us, we've told them they have witness
5 statements.

6 There was nothing unhelpful with regards to that
7 and, as I say in there, what the Scottish Police
8 Federation probably don't like me to say is that I had
9 represented multiple police officers on that occasion
10 and after that as well. It was fine for them to have me
11 representing police officers, but then to say I don't
12 believe police officers have the same rights. I have
13 always worked on the principle that if I think somebody
14 has done something wrong, then I'll raise the issue and
15 where police officers have acted within the law, I have
16 represented them to the best of my ability and was doing
17 so at that time in relation to data protection offences
18 in other cases, highly publicised cases, and the police
19 Federation knew that.

20 I was of course invited to Scottish Police
21 Federation dinners, annual dinners, and to speak at
22 their meetings. So all of a sudden, black man dies in
23 police custody and I am the enemy, but I wasn't the
24 enemy before; why?

25 LORD BRACADALE: Let's look at paragraph 209. You reference

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1 here a further press release issued in response to the
2 SPF press release the same day.

3 "The Bayoh family were deeply hurt by the tone of
4 the press release issued by the SPF and they felt
5 insulted and falsely accused."

6 So you explain here how the family felt, but can I
7 ask how did you felt? What impact did the SPF or
8 Mr Watson's press release have on you personally?

9 A. Well, it felt like deja vu and I thought here we go
10 again. I genuinely thought that that press release was
11 prepared with the family. It was very -- there was lots
12 of things taken out because you can't say that, can't
13 say that, can't do that. We need to keep it within that.
14 Can't speculate. It's a live investigation. We are
15 appealing to the public come forward, appealing to the
16 police officers, let the investigation be carried out
17 and yet of course the Scottish Police Federation or
18 their representatives weren't going to attack the
19 family, just in the same way the Stephen Lawrence family
20 weren't attacked, attack the lawyer, the mouthpiece, the
21 advocate on behalf of the family.

22 Yes, the paranoia was back, because I thought
23 despite all these years passing, despite me having
24 worked with the system, despite me having represented
25 police officers, it didn't really matter, because when I

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1 start to raise a question about the actions of officers,
2 I will come under robust attack. So I was paranoid,
3 I was upset, and it was again -- it was insulting, it
4 was an attack on my integrity and I was back in the same
5 position of taking the advice, do not defend yourself,
6 try not to get into a war with them, a war of words.

7 Q. I would like to take you to one or two paragraphs in the
8 statement of Calum Steele to invite your comment. His
9 Inquiry statement is SBPI 00556. And Mr Steele at the
10 relevant time was the general secretary of the SPF,
11 I believe.

12 A. Yes.

13 Q. And if we can look at paragraph 33 and 35 together and
14 then I'll invite your comment. 33:

15 "The issue here is that from the get-go this was not
16 any other death in custody which was obvious and it was
17 obvious principally because Aamer Anwar made it not
18 about any other death in custody and the early inference
19 that he was presenting was that police officers had
20 killed Mr Bayoh because of the colour of his skin so
21 that was very obviously something that the SPF had to
22 deal with."

23 And if we could scroll down, please, to 35:

24 "In terms of Mr Anwar, inferring Mr Bayoh was killed
25 by the police because of the colour of the skin at this

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1 stage it has been pointed out that this press release
2 was issued about 11 days after Mr Bayoh has died. I
3 have been asked whether I can recall anything that I
4 read in the press release or any commentary from any
5 other source that led me to that conclusion. Well, in
6 those 11 days I couldn't point to anything specific but
7 the general commentary from Mr Anwar's very early
8 involvement was an inference that the colour of
9 Mr Bayoh's skin was a contributing factor in his death.
10 Although the example I give here came sometime after his
11 death, it's blatantly obvious that Mr Anwar was making
12 such an inference."

13 And I have already looked at your press release from
14 11 May and there's nothing in it about race or racism.
15 Could I simply invite your comment on this criticism?

16 A. Well, Calum Steele is 100 per cent wrong and this shows
17 the institutional racism of the Scottish Police
18 Federation that couldn't see beyond my colour, because
19 they assumed automatically or from the very beginning
20 I was talking about race, yet you have seen my press
21 release, I had the press conference, the camera crews
22 were there and I didn't mention race. I avoided the
23 issue, I refused to comment on it and, in fact, I didn't
24 just refuse to comment on it for those 11 days.

25 I kept refusing to comment on it for the month of

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1 May, for the month of June and into July and then it was
2 I think around about 15 September or October 15, I think
3 that's when it went public. So Mr Calum Steele is
4 completely and utterly wrong. He can't find anything in
5 my press release that I've mentioned about race, yet
6 they persisted with that argument, not just amongst
7 their colleagues, but publically by issuing circulars to
8 over 16,000 police officers which put me in the firing
9 line, because every police officer in this country
10 thought, Aamer Anwar is playing the race card, when I
11 was doing the exact opposite.

12 Q. Can we return to your statement, please, and look at
13 paragraph 213 in which you comment on an SPF press
14 release of 2 June. And the text of that press release
15 is incorporated into the paragraph. So 213:

16 "I have been asked about the SPF press release of
17 2 June 2015, at the press release as drafted is headed
18 'Family lawyer heavily criticised' and states that 'The
19 comments made by those representing the family of the
20 deceased continued to promote a completely inaccurate
21 and misleading account. The officer injured remains off
22 work, has had several hospital visits and is now in
23 rehabilitation. An examination by a leading consultant
24 confirms her injuries were significant. The injuries
25 have been documented and photographed. The officers

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1 involved have never refused to provide statements. It
2 was agreed at the outset with PIRC that they would
3 revert to us when they wanted statements and when they
4 were clear on the basis that statements were to be
5 given. Mr Anwar can try to throw whatever mud he wishes
6 but the fact remains that a petite female police officer
7 was violently assaulted by a large male and believed she
8 was going to die as a consequence. In directing
9 increasingly hyperbolic, inaccurate and bizarre rhetoric
10 at the Scottish Police Federation, one could be mistaken
11 for believable that Mr Anwar being at the centre of
12 attention appears to be of greater importance than
13 allowing the investigation to proceed without
14 interference."

15 Now, I understand that you kept copies of all of the
16 press articles relating to the death of Mr Bayoh and
17 that those published between the date of his death and
18 2 June are all included within a single compendium which
19 has the reference AAC 00379. That has been published on
20 our website and is available to the Chair for his
21 consideration, so the Chair can take into account all of
22 the --

23 A. Yes.

24 Q. -- commentary between the date of the death and the
25 2 June, but may I invite your comment on the suggestion

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1 here that you had "thrown mud"?

2 A. It's simply not true. Simply not true. In terms of
3 mud, in relation to the officer, Nicole Short, which is
4 who he's referring to, it was Mr McSporran, the senior
5 investigator for the PIRC, that told me at the time as
6 he sat in the seat opposite me in my office he says:

7 "Aamer, Nicole Short was only in the hospital for
8 30-odd minutes and then she was back in the station."

9 And then we found out that Nicole Short was back for
10 some up to seven or eight hours back in the canteen with
11 her fellow officers. So that was the first thing. The
12 line he says:

13 "It was agreed at the outset with PIRC that the
14 officers involved have never refused to provide
15 statements."

16 Well, that simply is not true, because the PIRC kept
17 telling us again and again that we requested statements
18 and they refused. It was only 32 days later that
19 statements were provided and it seems to be either the
20 PIRC are telling the truth or Mr Watson is telling the
21 truth, it can't be both of them, because it was 32 days
22 later and we were told by the PIRC they requested their
23 statements and they were offered witness status. So
24 that was the first thing.

25 Mud, there was no mud thrown. It wasn't hyperbolic,

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1 it wasn't inaccurate, it wasn't bizarre, but what that
2 smacks of for me is the usual stereotyping that goes on
3 of black or Asian people to try and make out that we're
4 mad, that we're oversensitive, that we're hyperbolic,
5 that we have got a chip on our shoulder, that we're
6 playing the race card. That's what that language is
7 about. That's exactly what that language is about.

8 Q. Let's look at paragraph 214 of your statement. I think
9 I'll read it together with 215:

10 "The SPF are percentage it. They're trying to bait
11 me to get me to respond to personal attacks, and I'm
12 trying to resist. But the pressure is unbearable. It's
13 unbearable for me personally, but I'm a lawyer so I'm
14 expected to take it on the chin. If there's a white
15 lawyer out there and every week somebody prints an
16 article which just personally attacks you for doing your
17 job, what would they be doing about it? The Law Society
18 would be up in arms. Everybody would be saying 'How
19 dare you make an attack?'

20 "But it seems to me that over the years it's become
21 a case of 'Oh, it's Aamer Anwar. It's fine; it doesn't
22 have any impact on him personally.' So I saw a
23 concerted attempt to break the family and if they
24 couldn't break the family directly, then indirectly you
25 go for the lawyer because if you break the lawyer, you

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1 break the campaign and you shut it down, I saw that
2 years before with Chhokar and I saw it years before when
3 criminalised by the police for taking them on for
4 smashing a face in a racist attack, and in this they did
5 every trick in the book."

6 So you say here that it's become a case of, oh, it's
7 Aamer Anwar, it's fine, it doesn't have any impact on
8 him personally. Does this have an impact on you
9 personally?

10 A. It does have an impact on me personally, because I keep
11 saying I have to have developed this thick skin. People
12 keep telling me and it's all very nice, you know,
13 friends, family say just ignore it, just ignore it. You
14 can't ignore it, because when you shut the door and
15 you're on your own, it comes back to you when you switch
16 on your phone, when you get a letter threatening you
17 with legal action or threatening the family, you go
18 through your script and say, have I said anything wrong?
19 Have I done anything wrong?

20 I check my statements again and again and again. I
21 have learnt the hard way after facing contempt of court
22 and being put on trial before three of the most senior
23 judges in this country for standing up for the rights of
24 my client, that your life can be finished, your
25 professional career, in the worst instance you can be

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1 sent to prison. So I know what that feels like, but
2 everybody does think, oh, it's Aamer Anwar, it's a
3 laugh, it's a joke.

4 I would like to know how everyone of those white
5 lawyers sat there would feel if their life was
6 threatened, if they had to have panic alarms installed,
7 CCTV cameras installed because of death threats made to
8 you because you stand up and you fight the cases that I
9 do. There would be uproar, there will be questions
10 raised in parliament, but with me it just carries on.
11 If any of these lawyers were subjected to surveillance
12 by the Scottish Police Federation or by Police Scotland,
13 there would be uproar. It would be interference with
14 the rights of a lawyer, but when it comes to Aamer Anwar
15 of course, oh, it's just part of the course, nobody is
16 interested.

17 But of course it's not about me. I keep trying to
18 tomorrow that and that's hard, because I do
19 instinctively want to fight back, but I have to remember
20 I'm a lawyer representing that family who are sat there
21 and have to ensure that we get it to the finishing line.
22 So over the years you just keeping going and you keep
23 going and try and ignore it, but it has a traumatic
24 effect because it's upsetting. It breaks you down. I
25 have had a nervous breakdown, I have been close to a

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1 breakdown and I just have to sort of --

2 Even when I walk into this room, I'm sat there, I've
3 spent the last two years feeling uncomfortable,
4 uncomfortable sat there, how people look at you when you
5 walk into the room, the muttering that goes on. I feel
6 like when I go into court rooms and people turn around
7 and look at you, the remarks that are made and I see it
8 when people comment publicly about it or on the
9 commentary pages and feel, don't have to worry, because
10 Aamer Anwar is not going to come back at us.
11 Aamer Anwar is not going to make a complaint.

12 In fact, I remember the Scottish Police Federation
13 when they went on the attack, I sought legal advice from
14 the Dean of The Faculty of Advocates on how to take out
15 a case for defamation. Several months later, the Dean
16 of the Faculty of Advocates was representing the
17 Scottish Police Federation. That's how it works in this
18 country. Did I make a complaint? No, I didn't.

19 Q. One moment, please. Sir, I'm going to be moving on to
20 another subject, I wonder if this would be a convenient
21 time for the morning break?

22 LORD BRACADALE: Yes, we'll take a break for 20 minutes.

23 (11.28 am)

24 (A short break)

25 (11.57 am)

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1 LORD BRACADALE: Ms Thomson.

2 MS THOMSON: Thank you. Mr Anwar, I would like to move on
3 to ask you questions about some articles that appeared
4 in the press on 25 and 26 July 2015. To put this in
5 context, I believe that 25 July 2015 was the day on
6 which the Justice for Sheku Bayoh Campaign was launched
7 and I understand that you may have made a statement at
8 that specific launch. We don't appear to have a copy of
9 that statement, however what was said was reported in a
10 number of the newspapers online on 25th and then in
11 printed version on 26th, so I would like to take you to
12 those.

13 A. Okay.

14 Q. There are just two articles we need to look at, I think.
15 Let's look, firstly, at The Sunday Herald of 26 July
16 2015 and this is in another of the compendiums of
17 newspaper cuttings that you provided to the Inquiry,
18 AAC00380. Lovely, thank you. Now, for context can we
19 look at the second page of the PDF, sorry, the third
20 page, I beg your pardon.

21 To get our bearings, we'll come back to this in a
22 moment, but we see in handwriting at the top, "Sunday
23 Herald 26/7/15" and we'll see that this appears to be
24 page 3 of that newspaper. If we could scroll onto the
25 next page of the PDF, please, because I think these two

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1 pages are maybe the wrong way around. Here we are.
2 The Sunday Herald, we see 26/7/2015 page 2 and there's a
3 special report and if we scroll down just to get an idea
4 of this, we see a quotation from, I think, Kadi and if
5 we scroll to the bottom of that page we see:

6 "Family of Sheku Bayoh launch campaign calling for
7 answers over his death in police custody."

8 And we can see that there's the text box and an
9 image, but otherwise the special report covers all of
10 that page of the newspaper, if we can scroll to the
11 bottom of that page just to get a sense of that, thank
12 you, and because the pages were back to front, if we
13 could please go to the first page of that PDF, page 3
14 I think of the PDF, which is also page 3 of The Sunday
15 Herald.

16 So we see here that this is essentially a two-page
17 spread covering pages 2 and 3 of The Sunday Herald and
18 page 2 is taken up with the special report plus an image
19 and a text box and on page 3 there's another image and
20 we can see the concluding paragraphs of the special
21 report and also the final two columns on the right-hand
22 side have the heading "Sheku Bayoh death in police
23 custody: the unanswered questions".

24 So it would appear that the journalist, it's the
25 same journalist who drafted the special report, a

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1 Judith Duffy, has summarised in the final two columns on
2 page 3 of The Sunday Herald a number of unanswered
3 questions. If we could scroll down a little, please.

4 Perfect. I should say I'm working from these newspaper
5 articles because we don't have a copy of the text of
6 what was said by you at the launch of the family's
7 campaign. I don't know whether you might have a copy of
8 that, Mr Anwar, whether it was prepared in advance as a
9 printed statement that was perhaps issued to the press
10 and, if so, if it might be possible for us to have a
11 copy. It's certainly not in with the press releases.

12 A. I could have a look for that to see if there is a copy.

13 Q. That would be appreciated, thank you.

14 For today's purposes we'll work with what has been
15 printed in the press following the launch of the family
16 campaign, Justice for Sheku Bayoh, and the statement
17 that you made on 25th. So this is Judith Duffy's list
18 of unanswered questions and we see a number of
19 bulletpoints and I would like to look at the first two.
20 The first one:

21 "No knife was found. In the immediate aftermath of
22 Sheku Bayoh's death, reports suggested that the police
23 responded to a call of a man brandishing a knife and the
24 earliest reports were that a female police officer had
25 been stabbed, but the Bayoh family solicitor,

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1 Aamer Anwar, said it has now been established that when
2 the police arrived, Sheku not carrying a knife, not was
3 one found on him."

4 And I wanted to ask what the source of that
5 information was that you've put into the public domain
6 that Sheku had not been carrying a knife at the time
7 that the police arrived and that no knife had been found
8 on him?

9 A. Well, the family had spoken to people at the time who
10 lived around Hayfield Road, so they were also a source.
11 The crown and the PIRC, provided that information to the
12 family.

13 Q. Why did you choose to put that information into the
14 public domain?

15 A. What was the date of this report?

16 Q. This is 26th. It was the day of -- July 2015. It was
17 the day after the launch of the family campaign.

18 A. So by that point in time we had been from May, June and
19 July and the family were growing increasingly frustrated
20 with the press reports that were appearing, the attacks
21 on the family, the attempt to paint a narrative to
22 stereotype, to criminalise and to blame Sheku for his
23 own death. So the family felt that they needed to
24 defend, because the starting point of course was the
25 police source said that a police officer was stabbed.

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1 The way the narrative was framed as though they didn't
2 miss out the -- Mr Watson's narrative or
3 Brian Docherty's narrative or Calum Steele's narrative
4 always missed out that Sheku was unarmed when the police
5 arrived and that was critical importance, because of
6 course Sheku was seen with a knife earlier on, but there
7 was no knife when the police arrived but people assumed
8 he had a knife and that was the starting point.

9 So for the family they felt it was important to
10 defend Sheku in his death. Sheku couldn't speak for
11 himself, but they wanted to speak to that and say he
12 didn't stab anyone, he didn't brandish a knife at the
13 police officers. So for all extent and purposes, when
14 the police arrived, he could have been any black man
15 walking down the street. There are of course, despite
16 what some police officers may have said, lots of black
17 people who stay in Kirkaldy. So how did they know,
18 instead of saying, let's drive the van at him or jump
19 out of the van with CS spray, Pava spray and just go at
20 him, as they did from the offset, no attempt to
21 de-escalate.

22 So that was important for the family to have that
23 out in the public domain to set the record straight and,
24 I have to say, the family and myself were growing
25 increasingly frustrated with the lack of professionalism

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1 and the inability to investigate all the things we were
2 saying to the PIRC and to the Lord Advocate. What about
3 this? What about that? And it just seemed to be, you
4 know, even in terms of the weight, big deal made about
5 Sheku's weight, we kept asking what was the weight of
6 the officers? Normal common sense if you've got a man
7 who's lying down on the ground, I would ask what's the
8 weight of the people on top of him? So the family
9 wanted to defend Sheku in his death.

10 Q. Let's look at the next bulletpoint:

11 "Why did officers believe they were dealing with a
12 terrorist threat? The families say they have
13 established that police believed they were dealing with
14 a terrorist threat when they attended the incident
15 involving Bayoh. They want to know why this was the
16 case and whether that had any role in his subsequent
17 treatment."

18 Again, what was the source of that information?

19 A. I think material appeared in the newspapers, the
20 language that was used, and also, obviously, the crown
21 and the PIRC spoke to the family and the question the
22 family of course asked was, had it been a white man
23 walking down the street, would they have instantly
24 thought, we might be dealing a terrorist attack, would
25 they have mentioned Lee Rigby on a Sunday morning in

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1 Kirkaldy? Absolutely not, the family didn't believe it
2 and they wanted, again, to say stop building a narrative
3 to justify the death of Sheku Bayoh.

4 Q. Can we jump to another article now, please. There's
5 another point that I would like to ask you about that
6 doesn't feature, for whatever reason, in this particular
7 news report. I wonder if we can go to SBPI 00709 which
8 is a Guardian article actually published on 25 July.
9 I think it must have been an online article. It's
10 fairly lengthy. If we could scroll down to the third
11 paragraph, please:

12 "Aamer Anwar, the civil rights lawyer acting for
13 Bayoh's family, said at a press conference on
14 Saturday -- "

15 And I think, in fact, 25 July was a Saturday and I
16 think, again, this is a reference to a statement made by
17 you at the launch of the Justice for Sheku Bayoh
18 Campaign on 25; would that seem to be correct?

19 A. I believe so.

20 Q. Okay. Let's scroll down, please, to the second page.
21 Four paragraphs down there's a quotation here from
22 something you said at the press conference:

23 "'The family has known for weeks that the first
24 actions of the officers attending on meeting Sheku was
25 to use CS spray, was to use Pava spray (a form of pepper

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1 spray), was to raise their batons, yet at that point
2 Sheku had done nothing', the lawyer told the press
3 conference."

4 And again, I wanted to ask what was the source of
5 that information?

6 A. Through the family who had spoken to members of the
7 public who lived on Hayfield Road, the crown and the
8 PIRC and, of course, information that was regularly
9 appearing in the media.

10 Q. Okay, and what was the purpose of putting that
11 information into the public domain?

12 A. The family by that point, the relationship had become
13 restrained with the PIRC and they felt they were not
14 investigating fully, they felt under attack from the
15 Scottish Police Federation and felt the need that they
16 had to defend Sheku in his death and actually set out
17 the narrative as it was, rather than that Sheku just
18 went on a violent and unprovoked attack in an attempt to
19 murder a police officer, when the reality was he was the
20 one in a mental health crisis who needed help and he was
21 attacked and attacked and attacked and attacked before
22 he did something.

23 Q. Can we return to your statement, please, and look at
24 paragraph 242. In this paragraph you refer to a letter
25 that you received from the deputy crown agent,

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1 Lindsey Miller, on 8 June 2020. You provided the doc
2 ID, but you have also quoted the text verbatim in your
3 statement so let's work with your statement:

4 "Over the last few days I have seen public comment
5 and social media stating that Sheku Bayoh said 'I can't
6 breathe' in the context of comparison to recent reports
7 about the death in Minneapolis of George Floyd. In
8 particular, Collette Bell was reported in the Daily
9 Record, published on 4 June 2020, as saying
10 'George Floyd stated 'I can't breathe', so good Sheku.'
11 Further, in a BBC News interview broadcast on 4 June,
12 your client Sheku's sister Kadi Johnson, made an
13 identical comparison, also attributing the words
14 'I can't breathe' to Sheku just before he passed away.

15 "I was extremely surprised and concerned to hear of
16 these remarks in advance of the public inquiry when none
17 of the witness statements or other evidence in
18 possession of the crown contains any reference to Sheku
19 saying to police officers 'I can't breathe.' You'll be
20 aware of the evidential significance of such a remark,
21 had it been made, and of the importance of highlighting
22 such evidence to the experts instructed by the crown.

23 "I should be grateful if you would advise me of the
24 evidential origin of these remarks that have been made
25 to the press and other media in order that these can be

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1 investigated further."

2 Now, if we can scroll to the top of that paragraph,
3 please. In the first paragraph of the letter there's a
4 reference to public comment in social media and I would
5 like at this juncture to show you a Tweet. This is
6 SBPI 00705. So if we can pause here, that looks to be a
7 photograph of you. Has this come from your Twitter --

8 A. Yes.

9 Q. -- (as it then was) account? It doesn't appear to have
10 a date-stamp on it, but it relates to the death of
11 George Floyd. He died on 25 May 2020 so it must be some
12 point after 25 May 2020 that the Tweet was posted.

13 Let's read what it says:

14 "All those horrified at scene of a black man,
15 George Floyd, dying as he struggled to breathe whilst
16 being knelt on by a police officer, should also remember
17 Sheku Bayoh who said 'I can't breathe' whilst being held
18 down by officers until he died in Kirkaldy, Scotland,
19 3 May 2015."

20 And then there's a body map showing the location of
21 injuries and what I think might be a still from the
22 Ashley Wyse footage or certainly from Hayfield Road. Is
23 this a Tweet that was sent by you, Mr Anwar?

24 A. Yes.

25 Q. Undated but following the death of George Floyd, what

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1 was the purpose of you posting this Tweet?

2 A. It was to point out the comparisons between the death of
3 George Floyd and that whilst people in Scotland, police
4 officers, politicians were all busy taking the knee and
5 talking about Black Lives Matter, it seemed hypocritical
6 for me the fact that we had a black man by the name of
7 Sheku Bayoh that people didn't even know about or
8 weren't discussing and pointing out the comparisons and
9 the similarities of what had taken place. In Sheku's
10 case, of course, it was at least five officers that were
11 involved in restraining him and putting him to the
12 ground.

13 Q. Now, you state in the Tweet, if we could scroll down a
14 wee bit, please:

15 "Sheku Bayoh who said 'I can't breathe' whilst being
16 held down by officers."

17 What was the source of that information?

18 A. So I think the source of that information fundamentally,
19 first of all, came from Ade Johnson, who in 2015 had
20 with -- I think members of his family had been going
21 down Hayfield Road trying to gather information and
22 collect evidence. We relayed that information to the
23 crown in a meeting. The person who also heard that
24 information was April Meechan, who works in my firm,
25 he's a consultant, senior consultant, and also

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1 Dorothy Bane KC, who is the present Lord Advocate, who
2 was our counsel for several years.

3 We relayed that information in a meeting with the
4 crown and then following that, that was in 2015 and I
5 have been accused of many things in my time, but I think
6 the exact words of Ade Johnson was that the witness had
7 said to him that he had met was -- said the words "Get
8 off me, I can't breathe", and we have heard evidence in
9 this court of one witness at least who said that she
10 heard him saying, "get off me", hearing screams that
11 sent chills through her body.

12 And then after that what happened was in -- on
13 19 February 2019, in the victim's right to review, which
14 was prepared by myself, by April Meechan and the present
15 Lord Advocate, I believe -- I don't have the document in
16 front of me, I haven't looked at it for a long time, but
17 I think at page 20 there was reference to those remarks
18 and it was placed in the VRR, so a long time before
19 George Floyd died and of course nobody batted an eyelid
20 at Crown Office, when we said about Ade having met
21 someone and this person having said it. Nobody saw it
22 as controversial.

23 And why would it have been controversial, because if
24 you have got five people on top of someone and he's
25 struggling and he's screaming, "get off me" and if he

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1 says "I can't breathe", you would expect that, because
2 of course he was fighting for his breath -- last breath
3 and it only became controversial to the institutions, to
4 the Crown Office and to Peter Watson, who was the one
5 who wrote to the Crown Office in exactly the same terms
6 and then the Crown Office wrote to us, it only became
7 controversial to them because all of a sudden they
8 thought Aamer is making this up, Aamer is playing the
9 race card, Aamer is trying to get the bandwagon rolling
10 on George Floyd.

11 Well, actually, no, because it started in 2015, but
12 nobody cared in 2015, '16, '17, '18, '19 and then, of
13 course, in 2020, all of a sudden, it becomes a big issue
14 and I never received an apology from Lindsey Miller when
15 it was pointed out to her, did you even bother to read
16 the VRR before accusing me of doing this?

17 Q. So you say this was information that you received from
18 Ade Johnson back in 2015. You also say the information
19 was passed on to the Crown Office at a meeting; was that
20 meeting in 2015?

21 A. That meeting was in 2015 and I remember at that stage
22 what happened was members of the public had complained
23 about a black man coming to the door trying to collect
24 information, the PIRC contacted me, I then -- again, at
25 that point in time, it was early on in the summer of

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1 2015, I think, I don't remember the exact date, I said
2 to Ade and to the family you need to stay away, do not
3 interfere with a live investigation, you could prejudice
4 it, we don't want you having contact, let the PIRC get
5 on with their jobs.

6 Of course, subsequent to that then the family came
7 back to me because we find out that the Scottish Police
8 Federation, John Sallens, working on behalf of
9 Peter Watson, were busy going door to door making
10 allegations against Sheku Bayoh and they weren't being
11 stopped, but I had told the family robustly, back off,
12 let the investigation get on with its job, and that was
13 at that time that Ade met with that witness.

14 Q. We should understand that at some point in 2015

15 Ade Johnson had been approaching people who lived on
16 Hayfield Road --

17 A. Yes.

18 Q. -- looking for information about the circumstances of
19 Sheku's death.

20 A. Yes.

21 Q. So you had this information in 2015. It was provided to
22 Crown Office officials at a meeting in 2015, at which
23 both Dorothy Bane and April Meechan were also present?

24 A. It was provided, firstly, to myself, to April Meechan
25 and to Dorothy Bane and then I think we had a meeting --

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1 I can't remember who else was in the meeting, I think
2 Dorothy may not have been there, but the point was Ade
3 was there and this information was provided in the
4 presence of the family. So it was something that was.

5 But nobody thought it was controversial, nobody is
6 interested in the family saying "can't breathe", because
7 you already had witnesses saying "get off me", "sent
8 chills through my body", "screaming like an animal". It
9 wasn't a big deal, it became a big deal later. They
10 went "How did you do that?" and I went "Why don't you go
11 and check? About a year before we said to you in the
12 VRR and you didn't make a point about it then." But
13 George Floyd dies and all of a sudden the words "I can't
14 breathe" is something that reflects of what every black
15 person who has died in police custody has felt when
16 multiple police officers have restrained them. Of
17 course they can't breathe, what else happens? I know it
18 when I have got little children and I say to them -- to
19 the oldest ones "Get off the wee one. They can't
20 breathe." It's automatic. A trained police officer who
21 have known that, but for them this was controversial.
22 There was nothing controversial about it until after
23 2020.

24 Q. Coming back to the meeting in 2015 with the
25 Crown Office, who was at the meeting from the

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1 Crown Office side?

2 A. I'm trying to think, but I don't know if it was --
3 I think Lindsey Miller may have been there, Les Brown
4 and I don't know if the Lord Advocate at that time had
5 changed to James Wolffe, but I think those individuals
6 would have been there.

7 Q. Okay. The letter of course drew your attention to the
8 evidential significance of the statement and asked that
9 you advise the origin of the remarks that the
10 Crown Office could investigate further, but your
11 evidence is that that information was provided back in
12 2015 and you also refer to the VRR.

13 So just to get our bearings here, I wonder if we can
14 look at the VRR. It has been heavily redacted, because
15 our terms of reference don't permit us to examine that
16 process, but I wonder if we can look, firstly, at the
17 email to which the VRR was attached. That's
18 COPFS 03106. So this is an email sent on
19 1 February 2019:

20 "Subject: VRR made on behalf of the family of
21 Sheku Bayoh."

22 It's not clear who issued the email. The name has
23 been redacted. Would that however have been issued by
24 your office?

25 A. I think it would have been the secretary of my office

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1 and, sorry, I apologise, I got the date wrong. It was
2 1 February 2019 not 19 February 2019.

3 Q. Okay. And we see that it's been sent to Les Brown and
4 the secretary for the Lord Advocate, the secretary for
5 the Solicitor General, Lindsey Miller and others:

6 "Good afternoon, everyone. I enclose here with VRR
7 template with supporting application form an attached
8 document with reason set out requesting a review into
9 the decision not to take proceedings against officers of
10 Police Scotland in relation to the death of
11 Sheku Bayoh."

12 So my purpose in look at this email is just to get
13 the date-stamp, because I believe that the paperwork
14 attached is undated, but we can see here that it was
15 submitted on 1 February 2019.

16 Let's now have a look at the VRR paperwork,
17 COPFS 00199. Again, this has been heavily redacted.
18 Just to get our bearings, we can see from the title at
19 the top:

20 "Request for a review of a decision not to
21 prosecute, section 4 of the Victims and Witnesses
22 (Scotland) Act 2014 on behalf of the family of
23 Mr Bayoh."

24 And if we can scroll to the bottom of page 19,
25 please, so "AJ", is that Ade Johnston?

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1 A. Yes.

2 Q. "Ade Johnson attended at locus later and took
3 photographs of area, which we have, spoke with residents
4 on street, believes lady at Hayfield Road may have heard
5 SB saying 'Get off me. I can't breathe'."

6 So we see a written record here of that information
7 being provided in the VRR on 1 February 2019 and that of
8 course was a year before -- more than a year before
9 George Floyd's death.

10 Now, what's recorded here, Mr Anwar, is that Ade
11 believes that a lady at Hayfield Road may have heard
12 Sheku Bayoh saying 'Get off me, I can't breathe'. The
13 Tweet suggests that Sheku Bayoh did as a matter of fact
14 say "I can't breathe" and I wonder what steps you took
15 to confirm that the information that we see here in the
16 VRR was accurate before putting it in the public domain?

17 A. Well, in the first instance, Ade Johnson had met with
18 the resident. He had told me that was his belief that
19 that's what was said. We've heard evidence from a
20 witness that came to this Inquiry that said that
21 Sheku Bayoh had said "get off me". I then had to take
22 the position with the family after hearing from the PIRC
23 and the Lord Advocate's Office to tell them to step away
24 and to back off.

25 At the time, I told the family, don't worry, the

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1 PIRC will carry out an investigation, they will revisit
2 the investigation, they will go door to door. Of
3 course, many years later we found out they never
4 bothered. So there was a belief that they would get
5 around to doing that. We were unaware until years later
6 when we got disclosure provided, that they never
7 bothered with visiting civilian witnesses again. So as
8 far as I was concerned, Ade Johnson wasn't making it up,
9 because how could he know. He couldn't predict that in
10 four years' time George Floyd would die and say "I can't
11 breathe". He said the words "Get off me. I can't
12 breathe". That's what he said and I took that as what
13 he had heard from the witness and of course the
14 witnesses came.

15 Now, witnesses --all of us as lawyers are
16 experienced to know witnesses will remember some things
17 many years later and other things they won't remember,
18 but it wasn't controversial and that's the gist of this.
19 The injuries on Sheku, what happened to him, the
20 petechial hemorrhages in his eyes, the restraint that
21 was used on him, the force that was used on him, the
22 overwhelming force was on him, the screams that were
23 heard, "get off me", if he said at the words "I can't
24 breathe", what else would you expect him to say?
25 Nothing controversial.

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1 Q. This is a record of a conversation that Ade had had with
2 the lady?

3 A. As I said in my opening statement, Ade has been through
4 a great deal over the years. Ade took a statement. He
5 took -- he's not a precognition officer, he's not a
6 lawyer, he's a member of the public who was fighting for
7 justice for his dead brother-in-law, who he treated as a
8 brother. He went to that door. And I watched Ade
9 suffer a great deal and I asked him and the family
10 moved, of course, as I said, from Kirkaldy, they put
11 stuff into and they tried to find material and stuff
12 that was written down, but I said not to worry, the PIRC
13 is carrying out investigation, they'll go to the doors,
14 they'll get this information. Of course they didn't.

15 As far as I'm concerned, the statements that were
16 taken by the PIRC of civilian witnesses were amateur,
17 amateur. This was not investigation into a death in
18 custody. It was totally amateur hour from the PIRC and
19 they failed to get at the correct information from
20 witnesses.

21 Q. Okay. So I understand there wasn't a statement from
22 this witness for whatever reason and that what we are
23 going on here is information provided verbally to Ade.
24 It might be suggested that Ade believes the lady may
25 have heard Sheku Bayoh saying, "Get off me, I can't

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1 breathe", is perhaps different from Sheku Bayoh said
2 "I can't breathe," which is what was recorded in your
3 Tweet and I wonder if I could invite your comment on
4 that difference?

5 A. Well, Twitter has only a certain amount of characters.
6 Anybody who uses Twitter would know that. You have a
7 certain amount of character before Elon Musk took over
8 and you could extend the number of characters. That is
9 the first thing in Twitter you can put down a few lines
10 and you take the crux about the words were "I can't
11 breathe". I didn't of course put in -- I didn't have
12 enough space on Twitter to say "She heard screams that
13 sent chills through her body, screaming like an animal
14 and he said 'get off me, I can't breathe'" so the words
15 were "I can't breathe".

16 Q. Okay. Am I right to understand that the Tweet was later
17 taken down or deleted?

18 A. I don't know. I don't remember. I think -- I think I
19 have read that but --

20 Q. I can't assist us with --

21 A. I don't know.

22 Q. You don't know.

23 A. I don't know.

24 Q. All right. okay.

25 A. But what I can say to you is this is that that was yet

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1 again another example to say that I was a liar and that
2 I was making things up and Lindsey Miller got the VRR
3 and she didn't even notice that on 1 February 2019 she
4 was provided those words, I didn't just make it up on
5 the hoof in July 2020, it was said there. And the fact
6 that they chose not to take notes at so many meetings
7 that we had wasn't my fault, wasn't the family's fault
8 and they seem to forget, I was working pro-bono, I had
9 no resources to sit there with an army of lawyers noting
10 down every single word, typing it down or anything. It
11 was me going into meetings with them, with the family.

12 Q. Now, notwithstanding the word limitation on Twitter
13 certainly at that time, I wonder whether, with the
14 benefit of hindsight, you might like to reflect on
15 whether there was a sound basis for attributing the
16 words "I can't breathe" to Sheku Bayoh, given what we
17 see here in the VRR is that Ade believes that a lady may
18 have heard Sheku Bayoh saying "get off me, I can't
19 breathe"? The tone is somewhat less certain in what's
20 recorded in the VRR than the tone of what is said in the
21 Tweet.

22 A. No, I think it's -- I think it's worse, because Ade says
23 she said "get off me, I can't breathe", and "screams
24 that sent chills through my body", so I think actually
25 if I had had more words, could have added to the fact

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1 that this is what Sheku faced. The words "I can't
2 breathe" were pretty simple in comparison to what
3 Sheku Bayoh endured that day.

4 Q. Let's return to your statement, please. And I wonder if
5 we can look at paragraph 196. I'm interested in the
6 bottom part of the paragraph, but let's look at it very
7 quickly just to have some context:

8 "That's the issue here for the family: that they
9 used the CS spray; they used the Pava spray; they used
10 the batons; and all I can see the actions of a young
11 black man as he is walking open-palmed towards them and
12 he keeps walking. He doesn't do anything, and it's on
13 the fourth or fifth occasion that he lashes out, but
14 even then, he's down on the ground. Remove yourself
15 from his body. He's struggling. He's crying out. He's
16 making a noise that sends chills through one of the
17 witnesses: 'Never heard a scream like that'. Once the
18 police have got him handcuffed, get off him. Why do
19 they persist? Are he not trained? Do they not knowing
20 about positional asphyxiation? The whole focus has been
21 on drugs and cardiac arrest. That was the be all and
22 end all for them. We pushed and pushed on positional
23 asphyxiation. We pushed and pushed with the PIRC on the
24 basis of that. The biomechanics, the whole way his
25 chest is being pushed into a hard ground. We could see

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1 it. Nat Carey could see it. Professor Crane could see
2 it. There's no need to lie on top of him. There's no
3 need to teach 'the boy' a lesson, that was the insulting
4 terms they referred to him as. Because that's what this
5 all is. 'He went after one of us, a white female
6 officer. We had to teach him a lesson.'"

7 I'll stop there because that is the bit that I'm
8 interested in. It's the part in quotation there:

9 "He went after one of us, a white female officer.
10 We had to teach him a lesson."

11 And there's also a reference to teaching "the boy" a
12 lesson. Both of these phrases are in quotation marks.

13 I wondered whether these quotations had come from?

- 14 A. "The boy" comes from the reference to Sheku Bayoh
15 disparagingly in many of the police witnesses'
16 statements. I don't remember which police officers
17 were, but they referred to him as a boy, and the first
18 thing was -- I spoke to my team because I said use of a
19 boy for a black man, anyone who is black, they would
20 know in the United States is regularly used in a
21 demeaning and racist manner. You could be 60 years old,
22 you could be 70 years old, you could be a professor of
23 law, you could be a surgeon and a police officer would
24 call you "boy" and the same thing is translated in this
25 country. And I thought he wasn't a boy. Some of the

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1 police officers that referred to him were actually
2 younger than Sheku Bayoh. So that was the word "the
3 boy", that the family found insulting.

4 "He went after one of us ... We had to teach him a
5 lesson," I'm not sure where that comes from. It's not
6 somebody who has said that. That is not somebody has
7 said that. I'm saying this is what it felt like for the
8 family. "He went after one of us, a white female
9 officer. We had to teach him a lesson." "It was the
10 petite female officer that was attacked." Of course,
11 when Mr Watson refers to "the petite female officer",
12 that would have been murdered had it no been for the
13 interventions of other officers, he fails to mention she
14 is a police officer, a trained police officer, with
15 batons and weapons and there is full back up on the way
16 and batons and CS spray and Pava spray of course have
17 been used. She's still a police officers.

18 Q. So "He went after one of us, a white female officer. We
19 had to teach him a lesson", just to be clear, you're not
20 attributing that as a quotation to any of the officers
21 who attended Hayfield Road or indeed anyone else?
22 You're saying that was the family's take of events?

23 A. No, I haven't typed the statement up, so I'm not
24 attributing that to any police officer. That's what the
25 family felt this was about.

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1 Q. Okay. I would like to move on to another subject. Can
2 we look at paragraph 141 of your statement, please:

3 "I have been asked about my knowledge of the
4 creating and viewing of intelligence logs held by
5 Police Scotland under my name with the subject term
6 REFRACT, used for submission of counterterrorism
7 intelligence and when I became aware of this. I was
8 unaware of any details being held; I had always
9 suspected that I had been placed on numerous occasions
10 through my life because of cases that I was involved in
11 that meant conflict with the police. The first time I
12 became aware was when the Inquiry last year told me they
13 had discovered this material in disclosure. Following
14 that I met with ACC Alan Speirs and was shown minimal
15 paperwork at the police HQ. They tried to explain it
16 off by saying they were not allowed to show me the
17 information but some of it related to death threats to
18 me. This was not satisfactory, but I also was unwilling
19 for the police to be sidetracked into me rather than
20 Sheku's death -- I thought when the time arises then I
21 would deal with it."

22 And if we carry on, please, onto 142:

23 "I have been asked whether I was aware that COPFS
24 had referred this matter to the Information
25 Commissioner's Office. I was not aware that the matter

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1 was referred by COPFS to the ICO, after all I was led to
2 believe there was no information stored on me or the
3 family."

4 And you go on to say that in paragraph 143 that
5 there not been a public inquiry you wouldn't have know
6 anything about it. And I wanted to ask you if you could
7 describe the impact on you of learning that the police
8 held intelligence logs in which the term "REFRACT",
9 which the Inquiry has heard is a term associated with
10 counterterrorism intelligence was associated with your
11 name?

12 A. I was shocked, I was angry, and I felt vulnerable. It
13 was Imran Khan, the lawyer for Doreen Lawrence,
14 Imran Khan KC, who said to me at the start in May, he
15 said put in a letter to the Crown Office and ask him to
16 see that there has not been any checks or information
17 gathered on the family and then Imran said to me at the
18 end he says, "Don't forget to add your name?" I said
19 "Why my name? It's the family I'm interested in" and
20 Imran said because that's what they did to him and he
21 says "You need to check."

22 So of course when that was put in, it came back
23 saying there is nothing found, nothing at all, which
24 wasn't true, because of course there was a file kept on
25 me and from that I can only gather from what I have

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1 seen, some information that I'm not allowed to refer to,
2 that I was the subject of targeted surveillance, I was
3 subjected to files kept on me and information that
4 should not have been kept on me and that begs the
5 question, and I have said it before, if this was a white
6 lawyer doing the job that I was doing, would that be
7 acceptable or would there be a massive uproar and
8 outrage in this country from lawyers, from the legal
9 establishment, from the Law Society, from the Faculty of
10 Advocates, from the government?

11 I believe there would be, but for some reason,
12 because it's Aamer Anwar involved in the death of a
13 black man, there wasn't really any outrage, it didn't
14 really matter and of course at around about that time
15 Police Scotland were also found to have engaged in
16 unlawful activity in relation to the case of Emma
17 Caldwell, of course who I act for the family of
18 Emma Caldwell. So all these years later I find this all
19 out, same names popping up, same individuals.

20 I knew DCC Ruairaidh Nicolson for a number of years,
21 because of course Ruairaidh who I know as "Rory", had
22 been the one who had provided me support and officers
23 when my life was under threat, but I was never once told
24 this was going on behind the scenes.

25 So I saw myself as a target of surveillance and a

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1 target of unlawful activity by the police, but when I
2 was approached by the Inquiry, I had to make a decision
3 and I remember speaking to the rest of my legal team. I
4 said -- again, I said, I cannot become the focus of this
5 Inquiry, I cannot be sidetracked, I cannot decide to
6 take legal action, because it's a diversion. The focus
7 must remain Sheku Bayoh, but now here and now I am
8 angry, I am upset that why I should be placed in that
9 position, that sort of whispering campaign, local
10 activity. Police officers up and down this country, how
11 many of them have viewed these logs? What is it they
12 are looking for? What have I done wrong? Nothing
13 absolutely nothing.

14 Q. Did you make a complaint?

15 A. Did I make a complaint? No, because as I said, I am
16 used to over 25 years I've said I have never once
17 publicly complained to anyone about that my treatment
18 that I have suffered at the hands of Crown Office, at
19 the hands of the police, at the hands of the Scottish
20 Police Federation. I may well have taken advice from
21 people, but I have chosen not to complain, because I did
22 not want to sidetracked into complaining about myself,
23 because it has to be, as Imran and Michael Mansfield
24 said, "keep your eyes on the prize, keep your eyes on
25 the family, keep your eyes on the victim and do not be

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1 baited by them".

2 Q. I would like to move on to something else now, Mr Anwar.
3 And I would like us to discuss the evidence given by
4 Alistair Lewis, who was the family liaison officer for
5 the PIRC. He gave evidence on 8 February of this year
6 and he completed his evidence on 1 March of this year,
7 That was Day 78, and 87, and you may recall on Day 78 he
8 was taken to the FLO log in which there is a record made
9 by him of a telephone call with you timestamped
10 17:48 hours on 4 May 2015, written up at 16:45 hours on
11 5 May.

12 So what I would like to do is begin by bringing that
13 logbook up on the screen, it's PIRC 04150, so that we
14 can remind ourselves the content of the entry and then I
15 will remind you of what Mr Lewis had to say about this
16 entry before I turn to ask you some questions.

17 So I think we'll find this on page 18 of the FLO
18 log, and so if we stop is there, we see the timestamp
19 17:48 hours on 4.5.15 and if we look at the entry
20 itself:

21 "Advised Aamer Anwar of result of PM unascertained
22 death, subject to toxicology and brain tissue exam.
23 Asked who the pathologist had been. Unaware at that
24 time. At the time of the call Aamer had his children
25 with him. Also asked if he could obtain GP details for

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1 the PIRC to obtain medical records of Sheku for
2 pathologist."

3 And if we scroll down just a little bit to see the
4 date and time of the writeup, written up at 16.45 hours
5 on 5 May, 2015. If we could put the content of that
6 entry on the screen again, please, and we'll leave that
7 there, and what I'll do, Mr Anwar, is read out the
8 evidence that Mr Lewis gave in connection with this
9 entry. Please bear with me, it's a reasonably lengthy
10 passage, but you'll be aware when it comes to the
11 evidence I can't bring that up on the screen, I'll
12 simply read it out to you.

13 A. Okay.

14 Q. He was asked:

15 "Question: Where were you when you made this call to
16 Mr Anwar?

17 Answer: Kirkaldy Police Office out in the backyard
18 away from privacy.

19 Question: The entry says 'advised result of PM
20 unascertained, subject to toxicology and brain tissue
21 exam.' How did Mr Anwar react to that information?

22 Answer: As it says there, he asked who the
23 pathologist had been and I told him I was unaware at the
24 time.

25 Questions: And beyond asking about the pathologist,

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1 did he have any reaction to you sharing with him the
2 results of the autopsy?

3 Answer: No.

4 Question: You said in your second Inquiry
5 statement, paragraph 75:

6 'Aamer certainly didn't express any surprise when I
7 told him the PM had been completed. There is no
8 surprise.

9 Answer: That is correct.

10 Question: You have recorded in the entry that at
11 the time of the call he had his children with him. How
12 did you know that?

13 Answer: I could hear in the background and we had a
14 bit of conversation about children and looking after
15 them, et cetera. That was just a bit of professional
16 courtesy between both of us.

17 Question: You say 'children' rather than 'child',
18 were you able to tell how many children were with him?

19 Answer: I could hear the children in the background
20 and I probably would have said to him, is it a good time
21 to speak to him and he told me he was out with his
22 children at the time and was it okay to continue with
23 the conversation.

24 Question: Did he say where he was?

25 Answer: No, I don't think so.

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1 Question: Did you have an impression as to what he
2 was doing with the children.

3 Answer: Me, other than a father spending time with
4 children, no.

5 Question: Why did you record in the full log that he
6 had his children with him? Did you think that was a
7 relevant detail that he was worth noting down?

8 Answer: I could hear in the background that the
9 children were there, so I was just making sure it was a
10 safe environment to talk to him about these
11 circumstances. That's all.

12 Question: It was 17.48, which is after the end of
13 the typical working day.

14 Answer: Yes.

15 Question: Given that he had his children with him
16 and you said he was out somewhere with them, did you
17 form any impression as to whether he was able to give
18 you and the call his full attention at that time?

19 Answer: He said he could, so I wouldn't have
20 continued the conversation. If he has said phone me
21 back, I would have done that.

22 Question: You recorded that he asked you to obtain
23 the details of Mr Bayoh's GP.

24 Answer: Yes, to obtain the medical records.

25 Question: And how did he respond to that request?

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1 Answer: I can't remember. I think he said he would
2 go back to the family to be 100 per cent certain.
3 I couldn't be specific about the response."

4 So that was Mr Lewis' evidence about that particular
5 entry and I know that was quite a lot information to
6 give you. It's with a view to refreshing your memory
7 both of the entry and of the evidence that he gave.

8 Now, you were of course sent a Rule 8 request in
9 which you were invited to comment on the entry in the
10 logbook and we had that to hand. We received your
11 response before Mr Lewis gave his evidence and I think
12 it might be helpful at this juncture to bring up on the
13 screen your response to that Rule 8 request. It's SBPI
14 00453.

15 So we see this is on your headed notepaper and it's
16 a response to the Rule 8 and you have helpfully copied
17 over each of the questions before then providing your
18 response. So we've refreshed our memory of the entry in
19 the logbook and what Mr Lewis had to say about that
20 entry in his oral evidence. What I would like to do now
21 is take you through each of the questions and answers
22 and then ask you some questions.

23 So the first question reads:

24 "Alistair Lewis PIRC FLO recorded in the FLO log
25 that he had a telephone call with you at 17.48 on

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1 4 May 2015."

2 Now, at this moment can I just pause and say there's
3 a reference here to 4 May, I think that should actually
4 be 3rd, rather than the 4th. I think that's just been a
5 typo, but may I take it that from the context you were
6 clear what you were being asked about when you --

7 A. Sorry, so ... okay, 3 May. Is it 4 May I received the
8 call?

9 Q. Sorry, I beg your pardon, that's my error. I beg your
10 pardon. I think in actual fact when I went back and
11 looked at the Rule 8 request there was a reference to
12 the 3 May.

13 A. Yes.

14 Q. And you corrected that?

15 A. Yes.

16 Q. Is that right?

17 A. That's correct.

18 Q. Do you have the Rule 8 request there?

19 A. I have the Rule 8 here and I corrected, because it said
20 I received a call at 17.48 on 3 May and I said, no, it
21 would have been 4 May.

22 Q. Thank you. I'm getting myself in a muddle. So there
23 had been an inadvertent typo in the Rule 8 request that
24 was sent to you and albeit you copied over the question
25 into your response, you corrected the error, and you

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1 amended it from 3rd to 4th. But just for the avoidance
2 of doubt, were you clear from the question, even though
3 the date was wrong, what it was you were being asked
4 about?

5 A. Yes.

6 Q. There then follows the text of the log. We've read that
7 out already so we can skip over that and if we could
8 scroll down, please, here is the first question that you
9 were asked:

10 "Did you receive a call from Mr Lewis at 17:48 on
11 3 May?"

12 There we are, that's the error there, I knew it was
13 there somewhere. It should have been the 4th. And your
14 reply was:

15 "I had already been told on 4 May by the family that
16 they wished the postmortem to be put on hold and Ade had
17 told the PIRC that they wished it delayed until
18 Mrs Bayoh had arrived and she had seen Sheku. In
19 conversation with Alistair Lewis, this was reiterated by
20 myself on 4 May that the PM would be on hold for him to
21 claim that he told me the postmortem had gone ahead
22 makes no sense."

23 So can I begin just by being absolutely clear
24 whether you did in fact receive a call from Mr Lewis at
25 17.48 on 4 May?

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1 A. I don't remember if I received the call at exactly 17:48
2 on 4 May, it is a long time ago, I remember I received a
3 call from Mr Lewis, and he was told in no uncertain
4 terms put the postmortem on hold because Aminata Bayoh,
5 Sheku's mother, was travelling up and the family wanted
6 the postmortem -- and wasn't controversial. It was
7 like that's fine and also I think in that conversation I
8 said I would be speaking with the Lord Advocate,
9 Frank Mulholland, now Lord Mulholland.

10 So that's 100 per cent my recollection so it's just
11 simply not true and it makes no sense and of course his
12 notes were written up, as you said, I think on 16:45 on
13 5 May. They weren't written up at the time. They were
14 written the day after when all hell lets loose after I
15 have spoken to the Lord Advocate who then has to call me
16 back and apologise and say he didn't know.

17 Q. As I said a moment ago, we received your response to the
18 Rule 8 before Mr Lewis gave his evidence and so we had
19 the opportunity to put your responses to him and seek
20 his comment so on Day 78 he was given the opportunity to
21 read over this first question and answer and he was
22 invited to comment and he said:

23 "In conversation with myself he didn't reiterate to
24 me that the PM would be put on hold. It was later that
25 day or later or it might have been the following day or

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1 couple of days later that he told me the Lord Advocate
2 had indicated that the postmortem would be delayed and I
3 went back and that conversation I went back to this
4 previous, this phone call there, explaining the
5 postmortem and what I had told him that day."

6 So that's his comment on your response and this is
7 your opportunity to comment on that?

8 A. That makes absolutely no sense for Mr Lewis because he
9 knows fine well that on 5 May the family attend my
10 office, I have not looked up the rest of the Rule 8 but
11 on 5 May in the morning I contact Frank as I knew him at
12 the time, now Lord Mulholland so no disrespect intended,
13 Frank saying, "Can you contact me, this case has
14 happened, I need to speak to you". Frank phones me back,
15 "Postmortem will be kept on hold", wherein we say we're
16 going to instruct Professor Busuttil. And of course
17 then later on I think that morning when the family are
18 there we get the phone call from the PIRC saying, "by
19 the way the postmortem has taken place" and there's
20 uproar in my office, the room, the family have at least
21 ten members of the family there, and they're crying, and
22 they're upset and screaming, "What do you mean the
23 postmortem has taken place?" So it wouldn't make sense
24 because Alistair Lewis or whoever it was phoned me at
25 the time why didn't he say "but we told you, Mr Anwar,

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1 the day before" and why is he saying "at least a day or
2 a couple of days later" because he knows fine well the
3 Lord Advocate has gone back to say about the postmortem
4 and then he's subsequently told "actually the postmortem
5 has already taken place" and then there's a rush to go
6 "Aamer's children must have somehow interfered with
7 this" or, you know, I'll write up my notes at 16.45 on
8 5 May because someone sometime is going to ask the
9 question "Why did you allow the postmortem to go ahead
10 and not tell the family?" because of course Mr Lewis
11 could have told the family directly. I hadn't met with
12 the family. The family liaison officers were of course
13 communicating with the Sheku Bayoh family, that
14 relationship hadn't broken down, so why would they not
15 have told the family "by the way, the postmortem has
16 taken place", after all they were speaking to the
17 family. Why are they saying that later in the evening
18 that they speak to me. It doesn't make sense and the
19 reason it doesn't make sense is because it's not the
20 truth.

21 Q. Let's look at the second question that you were asked.
22 What I would like to do is go through each of the
23 questions and your responses to the questions and then
24 ask you some follow-up questions. So let's move on to
25 number 2.

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1 "If yes [and this was in relation to whether you had
2 received a call from him on evening of 4th] where were
3 you at the time you received the call? What were you
4 doing at the time you received the call? What was
5 discussed during the call."

6 And you say:

7 "As above but it would have been normal for me to
8 request the name of any pathologist so I could advise
9 our pathologist in order that he could make arrangements
10 to attend the PM."

11 So I want to just go back to the question really and
12 ask you whether you recall where you were when you took
13 the call?

14 A. No, I don't because of course we never saw any of this
15 until, you know, eight, nine years later after Sheku's
16 death, these notes were apparently written -- at the
17 time they weren't of course written -- at the time they
18 were written two days later so I don't recall, unlike
19 Mr Lewis, exactly where he was at the time. I don't
20 recall where I was but I do know that if I was receiving
21 a call over Sheku Bayoh in the heat of that moment, then
22 that was my priority because everything was dropped at
23 the time in terms of that is a case from that moment on
24 I remember the 4th, 5th, 6th, 7th, 8th, 9th, 10th, right
25 up to the 14th May, the first press conference, I was at

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1 this case nonstop gathering information, speaking to
2 colleagues, trying to get help, what do we do, speaking
3 to the Lord Advocate, speaking to other individuals so
4 where I was at the time I don't know and it really
5 doesn't matter is the way I would view it because the
6 point is he didn't tell me the postmortem had taken
7 place, he didn't tell the family the postmortem had
8 taken place and I asked the Lord Advocate the next
9 morning to put the postmortem on hold and the
10 Lord Advocate said he would do. Why would I ask the
11 Lord Advocate, Alistair Lewis? I mean in a conversation
12 that he's talked to me would I just forget conveniently
13 when I'm saying "I have been told by the family in the
14 phone call could you get the postmortem on hold".
15 I would phone back the family and say, "Listen, the
16 postmortem has taken place". At that time I would say
17 "I'm sorry, the postmortem has taken place", that would
18 have been it but the fact that this has been construed
19 as the truth is just simply not truthful.

20 Q. Do you recall whether you had your children with you
21 when you took the call?

22 A. I don't recall, if I had my children with me, what day
23 of the week would that be? I think it was -- so 4 May
24 would have been a Bank Holiday, I think.

25 Q. Bank Holiday Monday, I think.

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1 A. Bank Holiday Monday but I don't recall if I had my
2 children with me but in all honesty it would have not
3 made any difference at all. My children are used to the
4 fact of that I receive phone calls from morning to
5 night. They complain often to me about it, but they're
6 used to the fact that when the phone call comes in, it's
7 like -- and even at that time they were younger so they
8 would listen to me, I would be "shut up, be quiet" and
9 they would be quiet. They're not quiet now but they
10 were quiet at the time.

11 Q. All right. Let's return to your Rule 8:

12 "Question 3. Were you asked to obtain Sheku's GP
13 details from the family so the PIRC could obtain the
14 medical record for the pathologist? Given your
15 experience as a criminal solicitor, did this request
16 give any indication to you about the timing of the
17 postmortem?"

18 And you say:

19 "From recollection, we would have wanted the GP's
20 details, but that would not ever give me an indication
21 of the time, especially as we were trying to arrange a
22 time the following day so the family could attend first
23 and of course Monday, 4th was a Bank Holiday. In my
24 experience it's not necessarily the case that the PM
25 will always taken place within the first 24 hours."

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1 There's nothing further I want to ask you in
2 relation to that statement. Let's move on to question
3 4.

4 "Do you accept any part of the FLO entry as
5 accurate?"

6 And you confirm, "asked if he could obtain GP
7 details for the PIRC."

8 You would agree with that, question 5, you say that
9 you dispute the remainder and you're unsure if the
10 matter with regard to your children is true or relevant,
11 and you have covered that already.

12 So let's move on then to question 6:

13 "If your position is that you did not receive a call
14 from Mr Lewis as reported in the FLO log, can you
15 explain his contemporaneous record of that
16 conversation?"

17 And I should because here to note that in the
18 question, it's referred to as a contemporaneous record.
19 That may not be correct that Mr Lewis's evidence is that
20 the entry was written up at 16.45 on 5th so nearly
21 24 hours later. But leaving that to one side, in your
22 response you say, "it is either false or it is the
23 following day when he calls and the family then have to
24 be told the PM has gone ahead".

25 What do you mean by "the following day", what are

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1 you alluding to when you say he calls the following day?

2 A. Well, on 5 May is when I contact Frank Mulholland, 5 May

3 that morning before the family arrive, I have the

4 conversation with Frank -- or, sorry, Lord Mulholland

5 and then I meet with the family and then when I'm in my

6 office at Carlton Place with the family, I receive a

7 phone call from the PIRC. At that point when I'm saying

8 about I had a conversation with the Lord Advocate,

9 postmortem is obviously been kept on hold, we're going

10 to get a pathologist instructed, that's the point where

11 he says, "oh, the postmortem has already taken place, it

12 took place yesterday" and I say to the family "the

13 postmortem has already taken place" and I remember the

14 screams in my room, the upset, the tears as in how could

15 this be possible. Sheku's mother wanted to see her son

16 before a postmortem took place; his sisters wanted to

17 see their son(sic); Adi wanted to see his brother-in-law

18 and they were like, "but why", because they were told --

19 they had said -- they had said to the PIRC, "hold it,

20 wait for his mother to arrive", and they couldn't even

21 give that family at the courtesy of holding back a

22 postmortem. I have seen in my time as a criminal

23 defence lawyer the number of times that postmortems

24 haven't taken place immediately, haven't taken place

25 immediately. And of course it's a Bank Holiday weekend.

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1 If they had held it back to the 5th, what difference
2 would it have made to the PIRC? Not at all. But of
3 course the postmortem we now know police officers were
4 present that shouldn't have been present but the family
5 weren't entitled to be present.

6 Q. Let's look at question 7:

7 "If you accept that a conversation took place on
8 4 May at 17.48 in which there was a discussion about the
9 postmortem, please also comment on the following extract
10 from Mr Lewis's inquiry statement:

11 "'Aamer certainly did not express any surprise when
12 I told him the postmortem had been completed, subject to
13 toxicology and a brain tissue exam. He asked who was
14 the pathologist. There was no surprise. I assumed that
15 he was aware of that. There was certainly nothing to
16 say that he was unaware of the postmortem going on'."

17 Now, your response to that is "not true" and if we
18 scroll down we'll see that you, in support of your
19 position that this is not true, advance a number of
20 paragraphs, I think ten in total, if we could very
21 quickly scroll through those, just to be sure. Ten
22 paragraphs in total or ten points that you make in
23 support of your statement that this is just not true.
24 What I would like to do is go through these points with
25 you in turn and ask some questions.

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1 However, I'm mindful that it's a couple of minutes
2 until one o'clock, sir?

3 COURT: Yes, I think we'll stop for lunch and we'll deal
4 with that after lunch at 2 o'clock.

5 (1.00 pm)

6 (Luncheon adjournment)

7 (2.04 pm)

8 LORD BRACADALE: Ms Thomson.

9 MS THOMSON: Thank you. We were about to look at your
10 answer to question 7 and your response to the Rule 8
11 request and this is where you make ten statements in
12 support of your position that Alistair Lewis's account
13 of the conversation you had on the 4th is untrue. So
14 let's look at these in turn. The first statement reads:

15 "I had already been told on 4 May by the family that
16 they wished the postmortem to be put on hold and Ade had
17 told the PIRC that they wished it delayed until
18 Mrs Bayoh had arrived and she had seen Sheku."

19 So you say here that you had already been told that
20 the family had asked for the postmortem to be delayed.
21 Who was it that told you that had happened, that the
22 family had made that request?

23 A. I think it was Ade. Ade was the person initially that I
24 was having all the conversations with.

25 Q. And when did he provide you with that information?

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1 A. That would have been during the day sometime on 4 May.

2 Q. Let's look at your second point:

3 "In conversation with Alistair Lewis this was
4 reiterated by myself on 4 May. For him to claim that he
5 told me the postmortem had gone ahead makes no sense."

6 Do you recall what it was that you said to Mr Lewis
7 when you say here that you had reiterated the position
8 on 4 May?

9 A. I think it was just what I said, in terms of the
10 postmortem, just reiterating what the family had said
11 and I believe what the family had already said to the
12 PIRC that, can you just hold it back, the position would
13 normally be we would want to get our own independent
14 pathologists in and of course Aminata Bayoh, Sheku's
15 mother, wanted to see her son before the postmortem took
16 place and there was no problem with that.

17 Q. Do you recall how Mr Lewis responded when you said that?

18 A. There was no opposition to that. He didn't turn around
19 to me and say, "I'm sorry, Aamer, the postmortem is
20 going to have to go ahead." There was none of that, it
21 was just like, that's fine, he knew that was the request
22 of the family.

23 Q. Okay let's look at point 3:

24 "Had he told me I would not have sent a text at
25 9.48 am on 5 May to then Lord Advocate Frank Mulholland

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1 KC in the following terms:

2 "Hi Frank, I'm acting for the family of Sheku Bayoh
3 who died on 3 May, Kirkaldy. I have spoken to PIRC.
4 Real concerns about investigation and what happened.
5 I'm conscious this could go tits up, but I'm meeting
6 with the family later today and it would be good to
7 touch base with someone friendly at Crown Office dealing
8 with it. I understand Dave Green may be in charge, but
9 probably can't stand the sight of me since the old days
10 of Chhokar, plus family want an independent postmortem
11 or rather our pathologist to be present before it goes
12 ahead."

13 Now, this appears to be the text of a message that
14 you sent to Lord Mulholland at 9:48 hours on 5 May?

15 A. Correct.

16 Q. Is that right? Where does that text come from? It's in
17 quotation marks. Does that come from your telephone or
18 other records?

19 A. I retained all the telephones, mobiles, I had since 2015
20 and still retain them and have the text on that mobile
21 phone.

22 Q. Okay. So you make the point here that if you had known
23 the postmortem had taken place, then you wouldn't have
24 had any reason to send the message in which you refer to
25 having the family's pathologist present before the

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1 postmortem goes ahead.

2 Let's look at Point 4:

3 "A text message was sent to the PIRC to ask them to
4 phone me as I wanted to speak to them about my dialogue
5 with the LA."

6 That's Lord Advocate, I think.

7 A. Yes.

8 Q. "But also about having a second pathologist to be
9 present for the PM [that's the postmortem] for the
10 family."

11 Do you recall when you sent that text message to the
12 PIRC?

13 A. It would have been sometime after I think Frank, sorry,
14 Lord Mulholland phoned me back or maybe it was just
15 before but if I have said it was after the dialogue, it
16 would be after Lord Mulholland had contacted me and
17 spoken to me.

18 Q. All right. Do you recall what you said in that message?

19 A. I think it's just reiteration about the postmortem and
20 pathologist because I think at that point I was trying
21 to get hold of Professor Busuttill to be the independent
22 pathologist on behalf of the family.

23 Q. Okay. I wonder if we can perhaps look at the FLO log,
24 that's PIRC 04150, page 25. So here is an entry dated
25 9.47 on 5th:

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1 "Text message from Aamer Anwar to call him
2 urgently."

3 And I'm wondering whether that could perhaps refer
4 to the text message that you sent to the PIRC on 5th
5 after you spoke with the Lord Advocate.

6 A. Yes.

7 Q. And we see that this entry was written up, if we scroll
8 down a little bit, we'll see it was written up at
9 17.10 hours on 5th. Now, did the PIRC return your call?

10 A. I think the PIRC returned my call when the family
11 arrived in my office and after I had had a meeting --
12 sorry, after -- the family had arrived in my office so I
13 had had the discussion with Lord Mulholland, the family
14 arrived in my office and whilst the family are there, I
15 received the phone call.

16 Q. All right. Let's look at the entry that follows on from
17 this one because it appears to relate to another phone
18 call in between those two events. "So return call re
19 previous entry" and the previous entry was the PIRC
20 receiving your text message. This entry is dated 10.29
21 on 5th:

22 "Aamer Anwar asking why police officers involved in
23 the incident have not been suspended. Advised
24 responsibility of Police Scotland. Stated he will be
25 phoning Lord Advocate and Police Scotland to complain.

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1 Thereafter ..."

2 And then there's a reference to the FLO having a
3 meeting with some people.

4 And if we scroll down just a little bit further we
5 see that the entry was written up at 17.20 on the 5th.
6 So this appears to be a record of the FLO returning your
7 call or phoning you in response to the text message that
8 you had sent earlier that morning. It was written up
9 much later in the day at 17.20 and it records you asking
10 why the police hadn't been suspended and saying that you
11 were going to phone the Lord Advocate in the
12 Police Scotland to complain. We don't see anything in
13 this particular entry about your dialogue with
14 Lord Mulholland and having a second pathologist at
15 the -- at the autopsy, that hasn't been recorded by the
16 FLO, would you wish to offer any comment on that?

17 A. I don't have a recollection of it but of course my
18 mantra every single day after 4 May was just keep
19 repeating to the PIRC and to the Crown Office and to the
20 Lord Advocate as to why those officers involved in the
21 restraint of Sheku Bayoh were not suspended and I also
22 note that this note, date and time is taken after the
23 event, 17.20 on 5 May, when obviously there is uproar in
24 the office and I have spoken to Lord Mulholland who
25 apologises because he didn't know the postmortem had

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1 taken place and obviously -- I would say as a
2 back-covering exercise. These notes are not taken at
3 the time. They're responded to after the event when
4 they know there's trouble that potentially lies ahead
5 because the family are asking why, why did you go ahead
6 with the postmortem, what was the haste, what was the
7 rush, why did you have to rush it so quickly, could you
8 not hold on for his mother.

9 Q. Let's go back to your response to the Rule 8 request,
10 please, and look at point 5. So it was question 7,
11 I think, and point 5 beneath that. Let's, sorry, look
12 at Point 4 briefly, just to get our bearings and Point 4
13 you reference the text message to the PIRC, as you
14 wanted to speak to them about your dialogue with the
15 Lord Advocate and about having a second pathologist
16 present. And then at point 5 you say:

17 "This was followed that morning with a phone call
18 discussion with Lord Mulholland in which I verbally
19 requested if we could have our pathologist attend the
20 postmortem and to wait until Mrs Bayoh could attend.
21 Lord Mulholland confirmed that there was not a problem
22 with my request."

23 So I think that's perhaps self explanatory. Let's
24 look at point 6:

25 "It makes no sense at all, as is wrongly claimed,

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1 that I had been told by the PIRC the evening before a PM
2 had taken place, why then would I be texting the LA in
3 the morning and following it up with a telephone
4 discussion with the Lord Advocate."

5 And again I think that speaks for itself.

6 A. Yes.

7 Q. Let's look at point 7.

8 "The family were in my office that afternoon when I
9 spoke to Alistair Lewis advising him of my discussion
10 with the Lord Advocate. It was only at that stage that
11 I was told the PM had gone ahead. Some members of the
12 family became visibly upset and angry. Alistair Lewis
13 was unable to provide a satisfactory explanation as to
14 why they had not awaited the family. He never once said
15 that he had advised me of the PM the previous day."

16 I want to ask some questions arising out of this
17 paragraph. Do you recall the time of the meeting with
18 the family?

19 A. It would have been after around about 11 o'clock or just
20 after that I think, recollection. I can't be sure but
21 I think it was around about that time, it was in the
22 morning so.

23 Q. Was it a long meeting or a short meeting?

24 A. It was a meeting that lasted I think probably up to
25 between probably around about 40 minutes, 40 minutes or

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- 1 so.
- 2 Q. Now, do you recall, did you phone Mr Lewis or did he
3 call you?
- 4 A. I think he called me.
- 5 Q. And just to be clear, this was during the meeting when
6 the family were present with you in your offices in
7 Glasgow?
- 8 A. Yes, the sisters; Ade Johnson, the brother-in-law;
9 Aminata Bayoh, the mother; Collette Bell, Sheku's
10 partner; and then there was extended family members of
11 the Bayoh family.
- 12 Q. Was this a private call or did you have Mr Lewis on
13 private speaker?
- 14 A. I think -- no, I think this was a call to me but the
15 family were sat in the room when the call came in
16 because I said, "what do you mean, the postmortem has
17 gone ahead?" and at that point I remember there was --
18 it felt like there were screams from the family who was
19 sat in my room. Upset, screams of anguish and tears.
20 And I think I had to say to the family, "Could you just
21 be quiet for a second, I need to see what's going on".
- 22 Q. So it was a private call but the family were in the room
23 and they would have appreciated the postmortem had gone
24 ahead when you said to Mr Lewis words to the effect of
25 "what do you mean, the postmortem has gone ahead?"

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1 A. Yes, I couldn't understand why it had gone ahead, what
2 was the haste and why the family weren't told. They had
3 ample opportunity. They could have told them on 4 May
4 when the family liaison officers were meeting with the
5 family. They could have told me. They didn't tell me,
6 they didn't tell the family and that morning as well
7 they didn't tell me and then it's after the
8 Lord Advocate intervenes that all of a sudden it's like
9 oh, postmortem has gone ahead.

10 Q. Let's look at the entry in the FLO log that relates to
11 what I think is the same call. This is on page 30 of
12 the FLO log, please. Now, this call is timed at
13 14:20 hours. We'll look at the text of it in a moment
14 but it appears to relate to at the same conversation.
15 Your recollection was that your meeting with the family
16 had been in the morning about 11. Nothing may turn on
17 the timings but I'm wondering whether your recollection
18 of the timing is potentially inaccurate?

19 A. No, I recollect it being in the morning that I arranged
20 to meet with the family.

21 Q. All right. Let's look at the entry.

22 "Phone call from Aamer Anwar. He has spoken with
23 Lord Advocate, who has stated postmortem will be put on
24 hold. Reminded of phone call and entry at page 14."

25 And that's the entry we've already looked at, that's

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1 from the call at 17:48 on 4th.

2 "Further reminder, the family refused to do formal
3 identification and crown had directed PM would go ahead
4 for 5.15. Stated he was with family and he was unaware
5 of PM. Reminded of entry at page 14."

6 How did Mr Lewis react when you told him that you
7 had spoken to the Lord Advocate and the Lord Advocate
8 said that the PM would be put on hold?

9 A. I think in all my dealings with the PIRC there was -- in
10 the initial period there was almost like a shock that I
11 could contact the Lord Advocate directly and a sense of
12 nervousness from them because I was going above their
13 heads, these were the messenger boys, not being
14 disparaging but they were family liaison officers who
15 weren't giving information to the family so I thought I
16 need to go to the top and ask Lord Mulholland what's
17 going on, what can you do to assist, so I think it was
18 shock and nervousness when I told them that I had spoken
19 to the Lord Advocate.

20 Q. In the entry in the FLO log and, sorry, let's just
21 scroll to the bottom to see when that entry was written
22 up, written up at half past 5 on 5th but the entry again
23 if we can go back to the content of it, please, Mr Lewis
24 said that he reminded you twice of the previous
25 conversation the one on the evening of 4th but your

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1 evidence is that he did not say that he told you the
2 previous day that the postmortem had taken place. Now,
3 again we had your response to the Rule 8 request
4 available to us when Mr Lewis gave his evidence and on
5 the second day of giving evidence, that was day 87, it
6 was put to him, again if you'll bear with me, it's
7 another relatively long passage from the evidence but
8 I'll simply read out what he said and then invite your
9 comment.

10 A. Okay.

11 Q. "Question: Phone call from Aamer, he has spoken with
12 Lord Advocate who has stated postmortem will be put on
13 hold. What did you think when he said that to you?

14 Answer: I was surprised at that information.

15 Question: "What was going through your mind?"

16 Answer: Well, just I would assume that the
17 Lord Advocate would know through Dave Green and
18 management within the Crown Office that the postmortem
19 had taken place.

20 Question: You say, reminded him of phone call and
21 entry at page 14. When you say you reminded him of that
22 phone call, what did you say to him?

23 Answer: Just reminding him of the phone call in
24 relation to the result of the postmortem.

25 Question: How did he react to that?

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1 Answer: I can't remember how he reacted to it.
2 I think that is when he said the family was with him and
3 they were unaware.

4 Question: Can we go back to the entry we were
5 looking at a moment ago on page 30. He said he was with
6 the family and unaware of the PM and again you reminded
7 him of the conversation you say took place the night
8 before. Again how did you feel, what was going through
9 your mind when Aamer told you that he was with the
10 family and he was unaware that the postmortem had taken
11 place?

12 Answer: That's why I reminded him of it. I couldn't
13 understand that he was saying well, basically the
14 postmortem had gone ahead and I had given him the
15 information in relation to the result of the postmortem.
16 It's not being aware of it, I couldn't understand that.

17 Question: how did he react to you saying that?

18 Answer: I can't remember any particular reaction in
19 relation to that conversation other than stating he was
20 with the family and he was unaware of the postmortem so
21 again I reminded him of the entry and informing him of
22 the result of the postmortem."

23 Can I invite your comment on that chapter of
24 evidence?

25 A. It's absolute utter nonsense. I remember specifically

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1 saying to Mr Lewis, what do you mean, the postmortem has
2 gone ahead? You were supposed to wait. And obviously
3 he had the discussion with Lord Mulholland. Never once
4 did he say to me but I told you about the postmortem
5 yesterday not once, not twice, because if he had done in
6 the presence of the family there would have been a
7 full-blown argument. It was bad enough that
8 conversation with the family sitting there crying and
9 upset for him to then say that he reminded me and then
10 he further reminded me and how convenient he's got at
11 page 14 and it's on his log. I find it surprising that
12 all his notes are from 5 May. Why are they not from
13 4 May? Why are they not earlier on in those times. Why
14 are they not all after the event when the Lord Advocate
15 has obviously picked up the phone to find out what is
16 going on.

17 Q. I'm going to take you to another much shorter chapter of
18 Mr Lewis's evidence carrying on from where we left off.

19 "Question: The tone of this written entry is quite
20 calm. Was the conversation a calm conversation?

21 Answer: I don't remember it being anything other
22 than a calm conversation.

23 Question: Could you hear anything going on in the
24 background?

25 Answer: No, I don't remember anything going on in

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1 the background."

2 Could you invite your comment on that?

3 A. Again absolutely utter nonsense. It's surprising that
4 Mr Lewis can hear my children but he can't hear a family
5 screaming when they found out that their son or
6 brother's postmortem has taken place despite thinking
7 that it wasn't going to go ahead.

8 Q. Returning to his evidence, picking up where we left off
9 "Question: Aamer Anwar says you were unable to provide a
10 satisfactory explanation as to why they hadn't waited
11 for the family. Do you recall being asked about that?

12 Answer: I don't recall being asked that specifically
13 other than what is in my FLO log as to the Crown had
14 instructed that the postmortem was going ahead and that,
15 you know, I told him the result of the postmortem."

16 Again can I invite your comment?

17 A. Again it's not the truth, it's absolute nonsense. The
18 family was sat there, they heard the conversation,
19 I remember the conversation. It was: Why has it gone
20 ahead? And never once did he say to me, "Oh, we had a
21 phone call yesterday and I told you about it". Why
22 would he tell me? I hadn't even met the family at that
23 point in time. He was meeting the family. Why didn't
24 he tell the family at the time, "by the way at this time
25 on 4 May there's a postmortem going ahead" but he's

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1 saying he phoned he to tell me to tell the family. It
2 doesn't make any sense because I hadn't met the family
3 and yet they're meeting with the family and they don't
4 bother to tell them there's a postmortem taking place.

5 Q. Returning to Mr Lewis' oral evidence:

6 "Question: Mr Anwar also says that you never once
7 said that you had advised him of the PM the previous day
8 so he denies you referring back to the entry that we've
9 looked at at page 14 of your log. Can I invite you to
10 comment on that?"

11 And he said:

12 "That's Mr Anwar's opinion but I have got it logged
13 there that I did tell him the result of the postmortem
14 and the crown instruction was that the postmortem was
15 going ahead.

16 "Question: But did you appreciate that irrespective
17 of how it had come about there had been a fundamental
18 breakdown in communication here?

19 Answer: There would appear to have been, yes."

20 Again can I invite your comment on that passage?

21 A. Again it's not true. The notes were taken on 5 May in
22 the evening, they're not from the time, and this was
23 just one of the many breakdowns in communication by PIRC
24 with the family, they just didn't listen.

25 Q. Can we return to your Rule 8 response, please, and look

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1 at point 8:

2 "This was then followed by a phone call to the
3 Lord Advocate to apologise that it had gone ahead and
4 said he was unaware. This was just one of many issues
5 with PIRC that shattered trust in the PIRC and in
6 ability to keep the family informed."

7 Again I wonder if we might go back to the FLO log
8 and look at another entry that may have a bearing on
9 this. Sorry, I have not noted the page but it will
10 follow from the entry that we looked at previously,
11 which I think was page 30. There we are. So this is an
12 entry relating to a contact with yourself at 15:15 hours
13 on the 5th and the FLO has recorded:

14 "Family now wish to view the body. Is it viewable?
15 Will be instructing their own pathologist. States the
16 Lord Advocate is astonished PM went ahead. Aamer states
17 mother of Sheku had told Police Scotland she wished to
18 view the body before the PM. At that time, she was
19 travelling up from England."

20 So there's a record here of you saying that the Lord
21 Advocate was astonished that the postmortem had gone
22 ahead and the entry suggests that you spoke with
23 Lord Mulholland and then spoke again with Mr Lewis;
24 would that be correct?

25 A. Correct.

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1 Q. Returning, if we may, to your Rule 8 response, at point
2 9, you say:

3 "Furthermore, the above is supported by notes typed
4 up from the first few days following Sheku Bayoh's death
5 that states the following:

6 "'AA asked for the postmortem to be put on hold so
7 that our independent pathologist could examine the body.
8 Professor Busuttil, difficult for second examination.
9 Needed the family consent. Arranged meeting with
10 Alistair."

11 Where was this recorded, this information that
12 appears in quotation marks?

13 A. I think we had multiple counsel notebooks and in that
14 there was notes that were given to the secretary at the
15 time to type up any meetings. My writing is illegible
16 so half the time my secretary or trainees would have
17 great difficulty trying to understand what was written
18 so ...

19 Q. And have you recorded in the notebook the date and time
20 of that particular entry?

21 A. I think it was taken from -- I mean, I can't be sure,
22 can't be sure.

23 Q. And do you still have those notebooks?

24 A. Somewhere in storage because we moved offices from
25 Carlton Place to Blytheswood Square and you have to

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1 appreciate that in nine years there was a huge quantity
2 of notebooks and of course on 3 May 2015 we didn't know
3 there would be a public inquiry and we didn't know there
4 would be a lack of justice but I tried to keep as much
5 as possible as the time went on together so that if it
6 came to something like this that one day we would be
7 able to provide the Inquiry or whatever form of inquiry
8 it was with the evidence, including my text messages.

9 Q. And you said you have retained all of those?

10 A. Yes.

11 Q. And let's look at point 10:

12 "A subsequent meeting with Alistair Lewis took place
13 at the office on 6 May at which full details of the
14 initial PM were provided and I was told the cause of
15 death was unascertained. I asked who instructed the PM
16 and was told the crown samples had been retained."

17 And again I wonder if we can cross refer what you
18 say here with the FLO log, if we could bring that up,
19 please, and look at page 39. So here we have an entry
20 dated 6 May, 12:15, and if we scroll down we'll see that
21 the FLO attended at your office, various family members
22 were present as were representatives of PIRC, and if we
23 scroll down to look at the bottom five or six lines:

24 "Also told of result of PM in presence of the family
25 by DSI Little. Unascertained, subject to toxicology and

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1 brain tissue exam."

2 So that would appear to be a record of the
3 conversation that you have referred to at paragraph 10
4 in your statement.

5 A. Yes.

6 Q. Okay. Can you bear with me just a moment, please?

7 Thank you, Mr Anwar, I have no further questions.

8 A. Thank you.

9 LORD BRACADALE: Are there any rule 9 applications?

10 Well, Mr Anwar, thank you very much for coming to
11 give evidence to the Inquiry and for providing the
12 lengthy statement that you already have provided and I
13 also want to recognise the enormous amount of work that
14 you have put into this case over the years. The Inquiry
15 will now adjourn until tomorrow morning at 10 o'clock.

16 (2.31 pm)

17 (The hearing was adjourned to 10.00 am on Wednesday, 2
18 October 2024)

19 INDEX

20 1AAMER ANWAR (sworn)

21 Examination-in-chief by MS THOMSON1

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