



The Sheku Bayoh Public Inquiry

Witness Statement

Taken by [REDACTED] by telephone call

On 2 November 2022

Witness Details

1. My full name is Keith Hardie. My date of birth is 1963. My contact details are known to the Inquiry.
2. In 2015 I was a Detective Chief Inspector with the Police Scotland and had completed 28 years' service. From the incident to the time I retired, I remained in the same role.
3. I was a DCI in the major investigation team. My job was to manage homicides really or any other investigation that I was instructed to carry out. My role remained the same as it was then as to when I retired. So it was the management of the senior investigating officer on homicide investigations.

PIRC Statement, PS00667 - Keith Hardie, 27 May 2015

4. I have been read my PIRC statement (PS00667).
5. I provided PIRC with a true and accurate account to the best of my recollection at the time. The statement you have would be the most accurate because it

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was provided at the time, you know, as opposed to seven years later. Because my involvement was limited, I do have a good recollection of what was involved in relation to my involvement, what I did.

6. I have been asked if I have been following the Inquiry. I have been following it but I've not gone out of my way to follow it. If there was an article in the news about it, obviously high profile at the time, I did follow a lot of that and, obviously, a set of inquiries are coming up.
7. I have been asked if my recollection has been affected at all by what you have read in the media or have seen in the Inquiry evidence. I would say absolutely not. I'm entirely clear in what I learned on the day, what I was told on the day and, certainly, some of the media reporting that's come thereafter does not equate to what I was told on the day, shall we say. I'm not saying it was right or wrong, but I've certainly not been influenced by it other than, "Oh, well, that wasn't my recollection of what I was told".

Training

8. I have been asked what training I have carried out Prior to May 2015. I have a degree in criminal justice and police studies, and I have also attended numerous internal courses within Tulliallan within Police Scotland. I suppose the most relevant one for this investigation would be the Senior Investigating Officers (SIO) course, which I attended and obviously completed sometime ago, probably when I was a DI. So it's going back long before 3 May 2015. The SIO's course would've been around 2009. Before you're allocated a homicide for investigation, you must have successfully passed the SIO's course. It's a bit difficult to remember, but I would've attended and passed the course before I was promoted to DI, or just at the time of being promoted to DI.
9. I have been asked if I had training in investigating deaths in custody prior to 2015 but I don't recall. I was the chief inspector for the custody suite in ■

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 I don't recall any specific training around deaths in police custody if I'm being honest. I'm not even sure that that existed. I think that the principles for dealing with a homicide and a death in police custody would be almost identical, I would suggest.

10. I have been asked what training I had carried out in relation to equality and diversity, prior to 2015. Yes, absolutely. It would be around 2011, 2012. I think by that stage, everybody had attended the diversity and equality course, and I also did a lot of work with diversity when I was the chief inspector for the custody division around the treatment of ethnic minorities when they were brought into police custody, if you like. That was sort of LGBT, liaising with them. So I did a lot of training around that. You're going way back for the diversity course. I can't even remember what rank I was. Probably DS. So you're going way back in the early 2000's for diversity training, which every police officer did.


11. I have been asked about dealing with ethnic minorities in custody. It was part of my role at the time, when I was the chief inspector of custody, that I met with numerous minority organisations to try and put together a protocol around minority people being brought into police custody because there had been a number of issues in relation to that. I wouldn't necessarily say it was a training course per se. It was a piece of work I was given to try and address some issues we had with and I would have to be honest, it was primarily transgender, around how they wanted to be treated, i.e. male or female, when they were being brought into police custody. So it was a piece of work I did when I was the chief inspector of the custody division to try and address some issues that had been raised around ethnic minorities and transgender, once in custody.

12. I received a lot of training around dealing with next of kins of victims, because every time I was an SIO of a homicide investigation, I would meet the victim's family. So that was a significant part of the training on the Senior Investigation Officers course but, in relation to training on meeting the family for deaths in

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police custody, no. I was never aware that there was that training in existence, and I certainly didn't attend any courses in that regard.

13. I have been asked if I received training in media engagement. I did numerous TV interviews, radio interview etc. so I had media training. Again, it was part of the Senior Investigation Officer course, and there is a significant amount of media training and how to deal with the media. So, yes, I did get involved in training around media but not specifically for deaths in police custody. It was part of the Senior Investigation Officers course which I attended.
14. I have been asked if I received training in CS/PAVA deployment and record-keeping. I was trained how to use the spray itself, as everybody was but nothing to do with record keeping or anything like that. Obviously, when we were issued the CS spray, we all went through a training course in relation to that.
15. When I was a DCI, I had a significant team, but I wasn't in charge of anyone else training, other than in my role as DCI, it could be highlighted to me that somebody's training in officer safety, for example, had expired, then it would be my job to ensure that that officer attended the training.
16. I have been asked how police officers made aware of training and reading materials. It would be the training department, strangely enough, who would send out emails when I was due for a refresher training for officer safety. As I say, in my role as DCI, it would be highlighted to me that somebody was due their officer safety training.
17. I have been asked how officers are made aware of training and reading materials. This was all done through email through the training department and although there was a bit of reading here and there, it was primarily a one-day course to attend physically attend the one-day course where you were doing like scenarios etc.

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Experience

18. I have been asked what experience I had in investigating deaths in custody or following contact with police. I would say none other than my limited involvement with Sheku Bayoh. I have no recollection of being involved in an investigation in relation to a death in police custody or death after police contact.
19. I have been asked what experience I had in investigating complaints against the police. As an inspector, it was routinely allocated complaints against the police, and I also worked in the Counter Corruption Unit as a DI for a couple of years, during which time we investigated the allegations of criminality against police officers.
20. I have been asked if race was a factor in any of these previous investigations. I investigated a number of ethnic minorities, if I'm being honest, in relation to criminality. Not a disproportionate amount, but I couldn't honestly say hand on heart that the issue of race was something I was investigating. The investigations I was involved in were allegations of ethnic minority police officers being involved in criminality. Not just ethnic minority, I might add, a very small percentage but I was involved in an investigation involving an ethnic minority police officer potentially involved in a crime. I have been asked if there was any detainees who were of ethnic minorities that I had dealt with any complaints against officers in relation to racism. No, never.
21. I was involved with an incident of a black male who was arrested when I was a sergeant in [REDACTED] and he made a complaint to me that he'd been arrested purely because he was black and it was racist. I carried out an investigation a very quick investigation and reported his complaint through the normal channels but other than that, no I didn't. This was when I was a uniformed sergeant, so going back into the early 2000's.

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Notebook and daybook

22. I have been asked if I had a notebook and a daybook. Yes, I had both. The routine would be that every time you started, you would sign on in your notebook, note down what shift you were on and then anything you were involved with over that period of time you would note in your notebook. When you became my level and in my involvement in particular incidents, it would be a daybook we would use instead of a notebook which is smaller. You would also complete a policy file when you were the head investigator, which you would basically document every decision you made and give the rationale around the decision. That would be produced as our evidence, if you like, for any upcoming court case.
23. Our daybooks were retained for five years and then destroyed. Any daybook used would be stored in the sort of murder inquiry box, you know, if it was a major investigation. So on the completion of that inquiry, the box would be stored with all the documents in relation to that.
24. The 3 May 2015 was a Sunday and I wasn't on call that weekend. If I'd been on call, I would've had a briefcase with me, if you like, which would contain various documents including daybooks, notebook etc. I was called out to the Sheku Bayoh investigation from my house. So I had no daybook and no notebook. The only thing you were allowed to take any of these sort of things home was when you were on call. Obviously, the common-sense approach being you didn't need to, you know, go into the office to pick up these documents, books etc. So if you were off duty, which I was, and not on call, these documents would be locked away in my office.
25. I have been asked if there was any procedure after filling out notebook or daybook. There's not a procedure per se. If that incident developed into something I was to take charge of or, at a later point, become the senior investigating officer, then I would note everything and transfer that over

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retrospectively. It would be a daybook rather than a notebook. I mean, the notebooks were not fit for purpose for people operating at my level because they were too wee, and you can fill a notebook fairly quickly.

- 26. I have been asked if I had a daybook where I put entries relating to the incident on 3 May 2015. To be honest, the answer to that is I can't remember. I would've thought, and this is off the top of my head, I went to Kirkaldy police station, and I wouldn't have operated there without something to take notes on. I would say to whoever was on duty, "Have you got a wee notepad I could use to take notes?" I would've done that. I've no doubt about that.
- 27. I would have to say there wouldn't have been a lot in it, and I can explain why as we move on, but as to where that - my best guess around that is, I would've spoken to the PIRC and said, "Look, I've got this notebook. There's nothing in it that's contentious of any evidential value," and it would've possibly been destroyed after that or something I would've taken back to my workplace and never had to refer to it. I would have to say that's me giving my best guess because of the situation I found myself in. If I'd been on call, I would have had my daybook with me and I would've noted it in the daybook.
- 28. The relationship between Police Scotland and the PIRC wasn't very good during that investigation so I don't suppose I would have had a conversation with them regarding any notes that I had taken that day. I think it might well have been a decision I made myself that there's nothing in this that they need to know. Obviously if there was, it would've been incorporated in my statement. The majority of what I did was at their request.

Role on 3 May 2015

- 29. On 3 May 2015, I was the Senior Investigation Officer. I got a phone call from Lesley Boal, who was the detective chief superintendent at the time, who gave me a resume as to what she was dealing with as the on-call detective chief


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super over that weekend. She asked if I was in a position to come out and assist with an investigation which was ultimately being handed to the PIRC. The PIRC had already been informed, and they were in the process of also attending at Kirkcaldy. So that was the sum total of my remit. So it was to provide a bit of consistency around a handover, I would say, would be the best way to describe it.

30. I got a phone call from Lesley Boal on 3 May 2015 but I can't remember the timing of it. She gave me a brief update around a male who had been. There had been calls about a male in possession of a knife. The police had attended, apprehended him and, ultimately, he had died after police contact or in police custody. So that was the sum total of what I was told at the time I think, in fairness to her, she was looking for some assistance at a senior level to manage what was clearly a major incident, and that was the reason why she contacted. I don't really know why she contacted me because I wasn't on call but she did anyway. So there must have been logistical reasons for that whether it was around availability of other officers but it's not something I questioned. I've known Lesley all my service. I highly respect Lesley, a very, very good investigator and when she asked if I was available, I said I was because I was and then just got changed and made my way out to Kirkcaldy.

31. I have been told that my PIRC statement (PS00667) states:-

"At 1500 hours on Sunday 3rd May 2015 I was contacted by Detective Chief Superintendent Lesley Boal and requested to attend Kirkcaldy Police Station to assist with the investigation in to a death after police contact of a male known as Sheku Bayoh."

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32. I have been asked if it is likely that Lesley got in touch with me about before 3pm and before the Gold Group meeting. I was out [REDACTED] at the time I got the phone call. I can remember that.

33. I would say I was at Kirkcaldy for about 45 minutes to an hour before I attended to meet with ACC Nicholson.

34. From my recollection only, when I got to Kirkcaldy I established, now I can't be sure where I established this, but I established that the male had been walking along the road in possession of a knife. He'd been stabbing the knife at parked cars, is my recollection. The police were called. They attended and they attempted to apprehend him. One of the female officers was approached by the male and she turned and ran off, at which point she clipped her legs and she fell to the ground. At this point, he was still in possession of the knife, and the other officers who had attended the scene overpowered him, and they were in fear of their colleague's safety.

35. I learned from someone else that a knife had been recovered at the locus of the scene of the incident and, if I'm being personally honest here, the knife had been recovered already, forensically and photographed by an officer using his mobile phone. I had some reservations around that, however no major reservations. When I saw the photographs from the phone I thought, "No." I had reservations about it. I do know why, but obviously if you were going to protect that knife *in situ*, it's lying on the ground, you would have two officers to protect it. There was a lot going on with limited resources available at the time and they possibly thought " We can't afford to keep two officers here purely to protect a knife on the ground. Let's recover it forensically in one of the plastic tubes," and the officer photographed it on his mobile phone prior to recovery.

36. In an ideal world, I would have preferred that to be done properly, and I'm not saying it wasn't done properly, but I would have preferred to have scenes of crime at that locus and to photograph them generally there and then to focus in on the knife itself and have our forensic guys recover the knife. That's best

Signature of witness..... [REDACTED]

practice and would always be my preference in the circumstances. As I say, when I was told about how it was recovered, yes, I had reservations.

37. From there, there was obviously a consideration about CCTV to see if we could get CCTV footage. My recollection is there was dash cam camera which had footage of the male approaching the car in possession of a knife. I don't recall if I saw that footage or whether my memory serves me correctly. I'm pretty sure it does. There was a number of potential crime scenes – for want of a better word – which had been protected because, at that time, we didn't know what we're dealing with, or we wanted to try and establish the precursors to the situation we found ourselves in.

38. I have been asked about of the death message. I recall that the Chief Super was a friend of the family. He had been informed of the incident and he was enroute to speak to the family.

39. I had brief dealings with the officer who made that decision and, again, somebody who I would hold in high regard. Based on the circumstances as they were explained to me, I thought it was entirely sensible for him to do what he did, purely because he knew one of the members of the family, and it would have been a familiar face and somebody who may well have built up trust with the family. So, personally, I thought was a good shout. He was the head of the division, he was the senior officer in that division. So personally, I believe he came out to do that of his own volition and I thought that was spot on, if you ask me.

Gold Group Meetings

40. I have been asked what I recall from the Gold Group meeting at 14:40pm. I think it was more about the way ahead by that point. It was very much that we had to facilitate a handover with PIRC and be available to do anything they required, if you like.

Signature of witness..... 

- 41. The main action coming from that meeting was the request from the PIRC that Stuart Wilson (who was my DI at the time) and I interviewed all the officers who were involved in the incident.
- 42. There would have been other more minor issues discussed at the time but nothing of significance and nothing that was necessarily going to impact on the Inquiry. I know there was a number of areas or buildings shut down as potential crime scenes, and I was certainly keen, with the PIRC's permission, to remove the police presence from there once we'd carried out all the work that was required to be done. The picture became clearer as the day moved on, if you like.
- 43. I didn't have the role as SIO with Sheku Bayoh so I never really contributed at all at the Gold Group meeting. I was there to facilitate a smooth handover to the PIRC so I just listened to what was going on and I was given certain instructions, and one of them was to attend the post-mortem.
- 44. I probably would have taken notes at the Gold Group meeting. If I've been given instruction then, obviously, I would note that down, but I don't recall particularly noting down, or I needed to note down. I mean, if somebody tells me to attend a post-mortem, I wouldn't necessarily note it down because I'm not going to forget to do it, if you know what I mean.
- 45. Prior to 3 May 2015, I attended similar Gold Group meetings but my role was totally different. I mean, I would normally attend a Gold Group meeting as the senior investigating officer after I'd been appointed in that role. My normal role in a Gold Group meeting was to highlight to the gold commander as to what my plans were by way of progressing the investigation and what resources I needed from him/her to assist me with progressing that investigation. That was never an issue because when you're talking about homicide, it is almost always the most critical incident on the go at the time. That wasn't the case with Sheku Bayoh.



Signature of witness.....


46. I have been told that Investigator William Little's PIRC Statement (PIRC-00370) states:-

"At 20:05, Det Supt Little met with Det Supt Campbell, Det Ch Insp Hardie and Det Insp Stuart Wilson at Kirkcaldy police office. Agreed handover of investigation undertaken by police to PIRC. During the meeting, he confirmed the status of the nine officers who had attended this incident as witnesses. Advised he was happy for the officers to be updated with the interim result from the post mortem. Det Supt Campbell 'intimated that each of the nine officers would be personally contacted that night and advised accordingly. He believed that following this the officers would submit operational statements which up till then they had refused to provide."

47. I don't remember any specific discussions about the officers status. I was never of a view that they were suspects at the time, because what had been described to me previously. Their actions, from what I knew at that time, were entirely legitimate. So there was certainly no discussion around them being potential suspects. You know, I would say, "A suspect for what?". Albeit I accept, unfortunately, the guy died after police contact but, no, I would say in my mind the discussions were around how best can we a get witness statement from them. So there was never any suggesting that I can recollect at that time, I accept things moved on – that any of them should be treated as suspects.

48. I have been asked who decided if the police officers were witnesses or suspects, and on what basis but I have no idea. It would be done at a senior level, but I would be really surprised to find out the decision had been made at that time. I think it was entirely sensible to interview them as witnesses.

49. I have been told that the Gold Group Meeting Minutes from 3 May 2015 at 14:40 (PS07268) states:-

Signature of witness.....

“CCTV Strategy – TSU also called out re presence of CCTV in police vehicle which attended at locus (update police vehicle CCTV seized has not been working since March 2015, seized regardless,”

50. I have been asked about my reaction to the CCTV not working. I think this must have raised eyebrows, “Why is it not working?” type thing, “It should be,” but no more than that.

PIRC’s role

51. I have been asked about PIRC’s role in the events of 3 May 2015. My understanding was they were taking over lock, stock and barrel as an investigation, and we would assist them with any requests that they made to us. So we would work for them, if you like, and on their behalf and carry out any request they made to us.
52. I had not interacted with PIRC prior to 3 May 2015. The PIRC was in its infancy at that time. I don't know how long they'd been set up but no, I hadn't had any involvement with the PIRC.

Understanding of the incident

53. I provided my understand of the incidents at paragraph 30 of my statement. I have been asked what my understanding of the incident was.
54. I have been asked if my understanding of the incident changed during the day but it did not. It remained the same and it was only, I suppose, after, perhaps questions around the actions of the police at the time started to come to the phone. I think that was more through media but there was nothing on the day in question that made me change my understanding of what I was told.

Signature of witness..... 

- 55. I had this clear picture in my mind of - I met the female who was assaulted, a very, very petite individual - running away, being tripped by the legs of the male and the other officers reacting to that because the male was in possession of a knife. So can I say, I'm not saying 100 per cent that's what happened. I wasn't there, but that was the picture that I had in my mind and still do have because of what I was told on the day.

- 56. I did not brief anyone about what I understood to have happened. I would never brief anybody because it is sort of third hand information I'd been given. I would have certainly had a discussion with Stuart Wilson, who is one of my deputies, around what I'd been told, but I certainly wouldn't stand in front of a group of people and brief them. I would want to see or have evidence of that before I briefed anybody else. So I wasn't communicating to anybody else and that what I'd been told because it was kind of hearsay, if you like.

- 57. I have been asked if myself or any of my colleagues consider that this was an investigation into potential criminality on the part of police officers. There might have been conversations in relation to that because the details of what had happened were sketchy but, you know, I always had in my mind, "These officers had been called to that scene by members of the public. It was early on a Sunday morning." Whether their actions were entirely justifiable thereafter would be for somebody else to decide on but, if I'm being honest, it never crossed my mind that there was any criminality involved, absolutely none.

- 58. I have been asked if was there any consideration about race being a factor in the investigation at that point or at any point in future. I think purely because Sheku Bayoh was black, then race is a consideration 100 per cent, but there was nothing that came to light around this being racist and the police's actions were racist. I was certainly aware that Sheku Bayoh was black and there may be some inference there from anywhere that there might be a racial element to the whole incident.

Signature of witness..... 

Treatment of family and friends


59. I have been asked if I was involved in any discussions about the death message. Not at all. I wasn't involved in delivering the death message either. I never met any of the family. I don't know when the death message was passed, but I had no involvement in the discussion around it, none whatsoever.

60. I have been read the death message which was delivered to the family:-

“Following an incident this morning, in the Hayfield Road area of Kirkcaldy, officers from Police Scotland have been attempting to arrest Sheku Bayou, during which time he became unconscious, conveyed to hospital by Scottish Ambulance Service and despite best efforts by medical staff died shortly after 9am this morning.”

61. I have been asked if it is normal for wording to be drafted for a death message before delivering the message to families. I would say, in circumstances like this, absolutely, 100 per cent. I mean, going back to when I was a uniformed cop, I used to deliver death messages not very often and the sort of training around it was keep it very, very straightforward language. It was basically, “sit down, I've got some really bad news for you. I'm sorry, but your son has passed away” or something like that. I'm not saying keep it low level but I wouldn't go into any detail or use any complex language about it, just to get that message across that somebody has lost a family member or whatever. But that's the basics of passing on a death message.

62. I mean any time, at my level, any time I went to see a family, the death message had already been passed, and the family had been given time to come to terms with the information. I would then go in and offer them reassurance that I'm going to do whatever I can to identify the people responsible for the homicide.

Signature of witness.....

- 63. I have been asked about family liaison officers. I was not involved in the appointment of a Family Liaison Officer for the family. I do not know who was involved in that. Again, based on my experience, there would be a list of on-call family liaison officers who would get called out and be deployed, and they're always family liaison officers.
- 64. The family liaison officers are massive, they're a huge part of investigations now, and they are highly, highly trained officers who deal with the victim's family. There's a massive amount of training which evolves on a regular basis. The first thing you would do in any investigation is appoint family liaison officers to deal with the family.
- 65. I have been asked if it is was a matter for Police Scotland or PIRC. I would have thought it would be Police Scotland in the first instance and then the PIRC would come in thereafter but, as I said, the PIRC, in my mind, were in their infancy. So this was ground-breaking for me to have another organisation coming in to take over an investigation.
- 66. I have been asked if the investigation have been like a joint one. I think it was joint to a certain extent because when the PIRC. I suppose the PIRC took over and had primacy in how the investigation was progressed, but it was with our assistance. So, you know, you could probably argue it was a joint investigation but absolutely with the PIRC having primacy around any decisions

4 May 2015

- 67. I have been told that my PIRC statement (PS00667) states:-

"At 1300hrs on Monday 4th May 2015 I attended at the Edinburgh City Mortuary Cowgate Edinburgh and was present during the post mortem of Sheku Bayoh. At the conclusion of this it was established that the cause of death was unascertained pending toxicology and brain tests."

Signature of witness.....

68. It was a long, a very long, post-mortem; probably the longest I've ever been at. It was explained to me because of Sheku Bayoh's colour, they were unable to identify bruises like you would on somebody with lighter skin. So they had to remove the skin to identify bleeding under the skin to identify the areas of bruising. That was the reason for it being the longest post-mortem Well, it was the longest post-mortem, if I'm being honest.

Media engagement

69. I have been told that there was a Gold Group meeting at 12:30pm on 4 May 2015 and the minutes state (PS03161):-


"TASK – Media (Lucy Adamson) to be made aware of the PM results".

70. I was never made aware of this or any discussions that the media to be informed of the PM results.

71. I have been asked if that would be normal to update the press of PM results and if the media usually a topic that's spoken about at Gold Group meetings. I would say 100 per cent, yes. Media is a major factor. There's every likelihood there would have been a representative from corporate communications which was on media in attendance at the Gold Group.

72. I was not involved in media engagement at all and I do not know who was in contact with the media.

73. I have been asked if I knew that information was being given to the press at that time. It would have to be, it would 100 per cent have to be given to the press because, obviously, there would be a media clamour around. So I have no doubt whatsoever that a statement would have been prepared for the media in conjunction with the corporate communications.

Signature of witness..... 

- 74. I have been asked I was aware of a specific statement being made or any specific information being passed to the media about the events on 3 May. The answer is no. I do not know what was responsible or what information was being given to the press at the time.

- 75. I have no idea how the information that a female police officer had been stabbed was provided to the press. I have no idea where that would have come from

5 May 2015

- 76. I have been told that my PIRC statement (PS00667) states:-

“On Tuesday 5th May 2015 I met with the Lead Senior Investigator William Little where the previously agreed terms of reference were discussed. At this meeting it was agreed that all outstanding actions would be progressed by the PIRC and that statements previously obtained by officers from Police Scotland would be handed to the PIRC. It was further agreed that the PIRC would complete the house to house inquiries at all dwellings which provided a line of sight to the Police contact and that officers from Police Scotland would complete the peripheral house to house inquiries. This was detailed in the house to house strategy document.”

- 77. I know there was a desire on the PIRC’s part to take over the house-to-house, as I said there. Any CCTV recovered, they wanted to take possession of, which, again, is entirely understandable because they have primacy in the investigation.

- 78. I have been told that my PIRC statement also states:-

“It was further agreed that officers would seize any CCTV that may provide footage of the incident or footage of Sheku Bayoh prior to the Police Contact.

Signature of witness..... 

All such CCTV was thereafter handed to the PIRC for further investigation. This was detailed in the CCTV strategy document.”

79. I wouldn't be directly involved in obtaining any CCTV. There would have been a CCTV co-ordinator appointed to the investigation, and it'd be their job to set up the sort of parameters, as you just read out from my statement, and then go around that area and carry out a visual search to see if they could identify any potential CCTV cameras.

6 May 2015

80. I have been told that there was a gold meeting on 11:00 on 6 May 2015 at Kirkcaldy Police Station and there are minutes of this meeting (PS09779).

81. I am not aware of this meeting and I was not in attendance. To be fair, it wouldn't have been a day off, it might well have been that there was no requirement for me. I was based at Leith Police Station at the time, and I can't remember what my workload was. So I maybe liaised with Stuart Wilson and established there was nothing, no requirements of us. So it's entirely possible I never even attended Kirkcaldy that day, but I really can't remember.

82. I have been told that DC Robert Finch daybook states (PS18485):-

“Briefing DCI Hardie / DI Wilson

Operation Birnie

PM – bruising legs – restraints

Left hand bruised

Blunt force to head

Haemorrhaging to eyes – consistent with restrain / positional asphyxia

Bruising to wrist

Brain – cloudy – possible infection

Causes victim to be delusional

Signature of witness..... 

Cause of death – unascertained pending tox and neurology

Car – white car – damage consistent with stabbing?”

83. I have been asked if I recall a briefing with taking place. This is hypothetical, but Rob Finch was a productions officer so I would suggest there's a possibility that Rob attended the post-mortem with myself, and he's noting down injuries that were identified during the post-mortem. Possibly, that's all I would say is possibly why he's got the notes in his book. Because I don't see why after the post-mortem, after the PIRC taking primacy in it all, I don't see why I would be briefing Rob about anything; you know, he needed to know these detail. But Rob was known as being a productions officers, so during the post-mortem, if any samples were taken, his job would be to take these samples from the pathologist. I'm not saying he was the productions officer, but I'm saying that could explain that entry in his- possibly.

84. Rob was very young in service, very capable individual but wanted to do everything absolutely, you know, he would note down everything. That's the only explanation I can give for that. It might not be accurate but it's all I can offer.

7 May 2015

85. I have been told that my PIRC statement (PS00667) states that:-

“On Thursday 7th May 2015, I received a request from the PIRC to make contact with all officers, who were known to be involved in the arrest of Bayoh and establish whether they were willing to provide an operational statement. Officers Walker, Gibson, McDonagh, Good, Smith, Tomlinson, Maxwell, Paton and Short who all declined to give a statement on legal advice; it was clarified that were all (apart from Maxwell) treated as witnesses.”

Signature of witness.....

86. I have been asked if I had come across that before where officers involved in an incident like that were refusing to give statements. No, I hadn't, but I would have to say I haven't been involved previously in an incident like that I suppose.
87. I have been asked if I could give an example of officers who have not cooperated and provided statements. I've interviewed numerous police officers in my time in relation to complaints against the police and obviously allegations of criminality and on all the occasions. I don't recall an occasion where the police officers never gave me a statement. Although, I would have to say it was quite clear that they were declining to provide a statement on the advice of their solicitor.
88. I have been asked if the officers ever discuss their concerns about being a suspect with myself at that time. The first thing we did with each one of them was inform that they were being treated as a witness and the feeling I got was that their hands were tied because they had taken advice from the Federation solicitor not to provide a statement this time. They really had no choice, that was my feelings towards it.

12 May 2015

89. I have been told that my PIRC statement states:-

"About 0920 hours on Tuesday 12th May 2015, DI Wilson and I spoke with T/PS Scott MAXWELL, P Division within Kirkcaldy Police Station. T/PS MAXWELL was asked if he was willing to provide a statement regarding his involvement in the arrest of Sheku Bayoh and the events leading up to his T/PS MAXWELL provided that he did not wish to provide a statement, at this time, on the advice of his solicitor."

90. I have been asked if there was any reason why Maxwell was spoken to on the 12th as opposed to with the officers on the 7th. It would've been availability. It

Signature of witness..... 

absolutely would only have been that. Whether he was not on duty or whatever, I don't know, but they were all treated exactly the same, so that would have been around availability for sure. As before, the first thing we did with Maxwell and all the rest of them was made it perfectly clear they were witnesses and his position, as per the statement, was he decided not to give a statement at that time on the advice of his solicitor.

13 May 2015

91. I have been told that my PIRC statement (PS00667) states:-

“About 0920 hours on Wednesday 13th May 2015, DI Wilson and I spoke with PC 694 Alan Paton, P Division within Kirkcaldy Police Station. PC PATON was asked if he was willing to provide a statement regarding his involvement in the arrest of Sheku Bayoh and the events leading up to his death. It was clarified that the position of PC PATON was that he was to be treated as a witness. PC PATON provided that he did not wish to provide a statement, at this time, on the advice of his solicitor.”

92. I have been asked if there was any reason for PC Paton's statement being taken on 13 May. This would have been due to availability. I certainly was never aware of anybody refusing to speak to us or anything like that to explain that delay, so I'm pretty confident that would have been just about the logistics of taking a statement and probably his availability.

18 May 2015

93. I have been told that my PIRC statement (PS00667) states:-

“About 1050 hours on Monday 18th May 2015, DI Wilson and I spoke with PC 1014 Nicole SHORT, P Division within her home address. PC SHORT was asked if she was willing to provide a statement regarding her involvement in

Signature of witness..... 

the arrest of Sheku Bayoh and the events leading up to his death. It was clarified that the position of PC SHORT was that she was to be treated as a witness. PC SHORT provided that she did not wish to provide a statement, at this time, on the advice of her solicitor.”

- 94. I have been asked why PC Short’s statement was taken on 18th May. PC Short was off sick and we visited her home address, which might explain the delay in that.

Witness Statement Taking

- 95. I have been asked if the normal process would be to try and get statements on the day. Best practice would be to secure the statement as soon as practicable after the incident itself, because the longer it goes, the memory is going to be potentially impacted by other things or just diminished during the period of time so the best practice would be to secure that witness evidence as soon as possible.
- 96. I have been asked if it would be taken into account if officers were traumatised or emotional with what they’ve experienced, and how much weight is put on that for determining when to try and obtain a statement. I suppose it depends what you’re dealing with, but certainly the initial approach would be made based on what I’ve said previously about, “as soon as possible is the best practice” to obtain that statement. But if somebody was so traumatised in relation to what they had witnessed, then you would just have to be directed by them and when they were available.
- 97. I have been asked if there would have been a record somewhere to state that an officer was unable to give a statement due to trauma, for example. It wouldn’t be, I would suggest. Probably not unless it became significant as the inquiry developed . For example it might well be referred to in my statement that, “Officer B was not seen until ten days after the incident because of” and

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Signature of witness..... 

then provide an explanation. It was, you know, “Unfit for interview until that day” – that type of thing.

Race

98. I have been asked about equality and diversity within Police Scotland. Diversity was absolutely massive in the police for obvious reasons and rightly so. There was such an awareness of diversity.

99. I’ve investigated a cop for alleged racism, if you like so. But, you know, gone were the days that people were reluctant to come forward and make any form of complaint in relation to mistreatment or any influence of racism. People were coming forward left, right and centre, and rightly so. The canteen culture, if you like, had gone. With, I would have to say, unfortunately, the odd exception but, generally speaking, because of the massive training programme that was undertaken and the diversity courses that I attended, and others, were so impactful.

100. I was involved in two big inquiries, massive inquiries around institutionalised racism. We never uncovered it, if it existed at the time, we just didn’t and my feeling was that the conclusion of the Inquiry that it didn’t exist.

101. My understanding is that there was no evidence that what happened to Sheku Bayoh was in any way racial. So I think it would be difficult for the police to react to something, you know, when we don’t have any evidence that there was a racial element to it in the first instance. If you’re asking me, was I aware of a massive change because of the Sheku Bayoh incident, the answer is no because I would say the processes, procedures and training we had were already in place.

102. Prior to May 2015, if there was racism in the workplace, there were processes in place to report this. I mean anybody could report. We had like a whistle-blower type which was used fairly regularly, I would have to say, to report

Signature of witness..... 

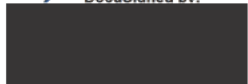
anything where somebody never had the courage to put their name to an allegation. After that it would be dealt with anonymously thereafter. There were so many processes in place that would allow you to report that.

103. If I'd experienced anything first hand, the first thing I would have done immediately was I would've brought the officer into my office, reported it to the detective superintendent, submitted a report and taken action as per that report. I'm not saying racism didn't exist in the police but, hand on heart, I never witnessed it and if I did, I would have 100 per cent challenged it.

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

January 12, 2023 | 3:39 PM GMT

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Date..... Signature of witness.....