



The Sheku Bayoh Public Inquiry

Witness Statement

Nicola Shepherd

Taken by [REDACTED]

on MS Teams

On 7 September and 7 December 2022

Witness Details

1. My name is Nicola Shepherd. I was born in 1975. My contact details are known to the Inquiry.
2. I am currently a Superintendent with the Police Service of Scotland. I have 29 years' police service.

Previous statement

3. I have had sight of my operational statement dated 18 May 2015 (PS00643) and the statements I gave to the PIRC dated 18 June 2015 (PIRC-00208) and 11 January 2018 (PIRC-00209). These statements I have given to the best of my memory at the time and I did my best to be truthful and accurate in what I said. I've read over the PIRC statements and confirm the content is correct. I'm asked if there was any discrepancy between this statement and my earlier statement, which statements I would prefer. I would say my operational statement and PIRC statements because they were given at the time.
4. I was posed the question – how do I draft an operational statement? As a senior officer, I'm not routinely deploying in an operational sense, in terms of out meeting

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members of the public or attending calls. So my practice has always been if I am out and about, I will carry my notebook in my protective vest and I will take notes and statements in my notebook. Day to day, for meetings and more generally for other operational business, I'll use my daybook which I keep in my office. It will be apparent from the dated entries in my notebook that the entries all correspond to times and dates that I've been deployed operationally where I would not routinely be carrying my daybook. I'm asked what my usual practice is for completion of my notebook. It can very much depend on the circumstances. There are times where if noting a statement or details of an arrest I will record at that time. There are times where it may not be appropriate or possible to take notes, so I would record them as soon as reasonably practicable thereafter. If asked to provide an operational statement for an incident I would refer to any notes I've taken, STORM call cards, meeting minutes, day book entries or any other documentation relevant to the investigation.

Professional Background

5. I joined the police service in 1992 as a police cadet and then as a regular constable in 1993. I was stationed in Glenrothes, which is in Fife. I served there as a uniformed constable performing frontline policing duties until 2000. It was then that I moved across to a detective constable post in Glenrothes CID where I remained until 2003. Remaining in a detective constable post, I transferred to North East Fife CID until I was promoted to Sergeant in 2005. I was promoted to Inspector in 2008 and worked in Fife Constabulary's Strategic Development Unit before taking up post as Detective Inspector for Offender Management in 2010. In 2011 I took post as the Detective Inspector for Levenmouth and North East Fife and in 2014 I moved to the post of Chief Inspector for Kirkcaldy and Glenrothes where I remained until July 2015. I then moved to a role in Executive Support, based at Stirling and was promoted to Superintendent in Corporate Services in 2017. In 2018 I took up post as Detective Superintendent [REDACTED]
- [REDACTED]
- [REDACTED]

Role in relation to incident on 3 May 2015

6. I'm asked about the remit of my role as at 3 May 2015. As the Local Area Commander for Glenrothes and Kirkcaldy, my remit was to oversee the delivery of our local and national policing priorities. I was responsible for the operational delivery of policing in both areas and that included the deployment and coordination of resources and

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generally managing overall performance in the area, The Local Area Commander also plays a lead role in community planning with multi-agency partners and reports on local performance to Local Authority Scrutiny Boards on a quarterly basis.

7. In terms of the incident itself, my duties were to effectively continue to perform my role as Local Area Commander but with the additional responsibility to monitor community impact as well as the impact on staff. In addition, my role was to ensure we were able to continue to provide a policing service to the communities in the Kirkcaldy area and a visible and responsive police service.

Briefing of circumstances

8. I have been asked about the initial phone call from Chief Superintendent Garry McEwan at 0930 hours on 3 May 2015. As per my statement, I was informed of an ongoing incident in the Kirkcaldy area whereby a local man was deceased having been involved in an altercation with police officers. Due to the potential impact and high profile nature of the enquiry I was asked if I could resume duty. I'm asked how I was appointed to my role relating to the death of Sheku Bayoh. Because it was a Sunday, I was off duty and due back to work on the Monday. The request to return to duty was in effect to resume my role as Local Area Commander and take the lead on managing the community impact, lead on our local policing resource deployment and ensure resilience to deliver services to the public in the area. If my memory serves me correctly, at the point I received the call, it had been declared a critical incident - I think that was conveyed in the telephone call from the Chief Superintendent. I recognised that by it being declared a critical incident that it was assessed as likely to have a significant impact on the local community, clearly the family of the deceased and the police officers and staff involved. I don't specifically recall any other details provided by Garry McEwan during that call other than what is noted in my statements.
9. I'm referred to an extract from my daybook and an entry headed "Sunday 3rd of May 2015, KPS" (PS09164) at page 1. This contains details of what appears to be notes of 999 calls from various individuals with timings and reports of a black male with a knife. Followed by the following entry: *"07:22 – emergency button pressed – sounds of disturbance."* I'm asked if I have any recollection of where this information came from. I don't; however, I suspect that the initial list of timings may have come from the STORM call card as the timings noted are very specific. I wouldn't have had my

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daybook at home on the Sunday, so I believe that this daybook entry was made once I arrived at Kirkcaldy Police Station. The daybook entry continues: *"Update Sammi – man on the ground, restrained – unconscious handcuffed to rear. Pava and batons deployed. Ambulance contacted - PS Scott Maxwell – Derek Connell went with deceased. One officer struck him to the head. Sheku Bayo b.30/09/83 @Sierra Leone"*. I couldn't say where this information came from. I was provided a briefing from Garry McEwan on my arrival at Kirkcaldy Police Station. I'm asked if this information came from that briefing? I am unable to say but I don't think so. I don't remember the conversation being of any length. It wouldn't have been normal practice for me to write down what was said if it was just a verbal conversation. I don't remember the conversation being of any length. I think at that point the Gold Group meeting was being convened and all the information I would need to know would be fully outlined then. I can't remember any information from that briefing beyond what is noted in my statement. I don't recall being given any information about a weapon at that point. I was expecting to get the full information at the Gold Group.

10. I've been shown handwritten minutes of the Gold Group meeting on 3 May 2015 at 14.40 hours (PS06514). Page 1 appears to contain a summary of the circumstances given under the heading of "factual update – DI Robson". This appears to continue onto page 2, which states:

"gave sign to back off. CS deployed.

Male - went for female. On ground kicked to head.

- male stopped breathing, CPR continued, locus protection in place.

- during struggle, he lost control of knife."

I'm asked if I remember a discussion about this at the meeting. No. I don't remember the sequence of how all that was presented. I don't remember that comment about *"during struggle, he lost control of knife."* It's not something that I can remember now given the passage of time.

Family Liaison Officers

11. I'm asked if I had any involvement in the appointment of a family liaison officer from Police Scotland to Mr Bayoh's family or the decision not to deploy FLOs to the Bayoh family. No, it was never an aspect that I was involved in. I've been shown handwritten minutes of the Gold Group meeting on 3 May 2015 at 14.40 hours (PS06514). At page 6, the following is noted:

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*"FLO deployment and notification to sister
Diversity and equality input for the FLOs,
Independent Advisory Group, cultural issues re Sierra Leone, etc., to
speak with CSup McEwan."*

I have been asked whether the diversity and equality input for the FLOs was something that would be discussed with me or whether I have any recollection of the discussions on this point. No, I was not involved in the deployment of the FLOs.

12. I have also been asked whether I have any understanding or recollection about the independent advisory group requiring to speak with Garry McEwan. I'm assuming that the Independent Advisory Group was the Lay Advisory Group, which involved officers and staff from Police Scotland and the lay advisors that we had invited to the group in the days after the incident. So I'm assuming that's what being referring to.

Attendance at the Canteen

13. I'm asked about when I went to the canteen to speak with the officers on 3 May. I can't recall the time I went down or if it was before or after that first Gold Group meeting. I must have only been there for a few minutes. The purpose of that visit was to check on their welfare, to make sure that they'd been asked if there was anything they were going to need. I think by that point, and again I know I don't know the exact time they'd been there for what I believed would've been a couple of hours by that point, give or take. I think I asked an open question such as, "Is everybody okay? Does anybody need anything?" I'm asked who was in the canteen at that time. I couldn't categorically say that all of the nine officers were there. I don't think Nicole Short was there at that point, but I can't be sure about that. I note that I can recall that Amanda Givan was present from the Police Federation. I note my PIRC statement dated 18 June 2015 (PIRC-00208), at page 2 records *"I can recall that Amanda Givan was present from the Police Federation. I am unsure if anyone else other than the principal police officers, with the exception of Nicole Short, were present."* I can't recall anything beyond that.
14. As to what was said, I don't think anything was said by the officers other than an acknowledgement that I'd been down and maybe a thanks for coming down to speak to them. Nobody there asked me for anything or for anybody to be contacted on their behalf. Amanda Givan was there, so I assumed that Amanda would've been asking the same question around whether anybody was needing anything or if anyone wanted

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someone contacted. Once I asked that, if there was a response, I don't recall it, and it was such a short conversation that I couldn't specifically tell you what I said, but the purpose was purely to check if everyone was okay and was there anything that they needed of me? I don't remember anybody asking for anything and after that couple of minutes of being there, I basically left and I did not return to the canteen.

15. I am asked about PC Daniel Gibson's PIRC statement dated 4 June 2015 (PIRC-00258), at page 8 where it states *"I remember that CI Nicola Shepherd, the Kirkcaldy CI came in at one point, she said that the family have the right to know what happened. She only came in for about 5 minutes. I don't know why she said that, I'm assuming that was because the Federation officer (female) had told us to say nothing at that stage."* I don't have any recollection of that. That's not to say I didn't say it. I don't recall it.

Provision of initial accounts/statements by Officers

16. I'm asked whether I was aware of requests for initial accounts or requests from the PIRC seeking operational statements from the officers? Not specifically. I don't recall being told that requests had been made and I was not involved in making any requests.
17. At 1130 hours that day, I attended a Gold Group meeting. I've had sight of the Gold Group Minutes of that meeting (PS06491) chaired by ACC Nicholson. My responsibilities around this incident centred upon police resources, community issues and preparation of a Community Impact Assessment (CIA). I can see the Minutes say *"Police Officer statements – Federation Reps providing advice to officers concerned regarding this matter"*. I'm also asked about my corresponding daybook extract in relation to "3 May 2015" (PS09164). Under the heading "1140 – Gold Meeting" on page 3 I note *"Police officers – coordinator. Federation have advised them there is no obligation to provide statements."* I have recorded that but I don't recall the conversation. The notes in my daybook were taken whilst the Gold Group was ongoing. I've taken notes to ensure I was able to capture any actions I needed to take away from the meeting. I can't recall the discussion now.
18. I'm referred to the same daybook extract, at page 7, which is my notes of the 1950 Gold Group meeting on 3 May, which says *"discussion around policy of position of police officers status. Provision of operational statements /and advice from Federation."*

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Again, I've taken these notes whilst the Gold Group has been ongoing, but I am unable to recall the discussion now. I can't remember the discussion about the status.

However, I'll qualify that with the fact that at no point was I under any belief that they were suspects. That would've been something that absolutely I would recall. I just don't remember the actual generalised discussion. My assumption was they were witnesses because if I'd been told they were suspects, that's not something I would forget. It's something that would've been very important in terms of how I was going to manage the roles that were given to me in terms of my responsibility as the Local Area Commander and for staff welfare in particular. So, whilst I can't recall anybody determining or discussing their status when trying to recall events now, I had no reason to believe they were anything other than witnesses. As I've said, had I been told they were suspects, that would have been notable and I would remember that.

19. I'm asked whether I would expect officers to give initial accounts in these circumstances. From my experience it's normal practice for officers to provide an account of their involvement after an operational incident. I think the difference in this incident was that the officers were given advice not to provide statements before any request was made. I'm not privy to the advice that they were given, but I think that's what was different in this set of circumstances. But, certainly from my experience, officers provide statements on request. We are public servants and that's what we do.

20. I'm asked about the difference between officers providing an initial account and officers providing an operational statement. If I was to make a distinction between the two; an initial account, more often than not, in my experience, comes without being formally asked. By way of example, normally, if an incident occurs, the officers or staff involved provide an account explaining to somebody, usually a supervisor, what has happened. It's not until the nature of the incident starts to unfold that it then becomes necessary that an operational statement in writing is required. If that's the case then an operational statement will be asked of them., The initial account is almost a spontaneous response to enable other colleagues, the Control Room or supervisors to understand what has happened. An operational statement would contain much more detail about the incident and often the person requesting the statement will ask for specific points to be covered in the statement.



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Status of the Officers

21. I'm asked if I remember any discussion regarding the status of the officers, whether that be on 3 May or at a later stage, whether they were suspects or witnesses or how they were being treated by the PIRC? I don't recall these conversations now and can only rely on the notes I made at the time. As I have indicated previously, I did not believe that the officers were considered to be suspects so my assumption throughout was that they were witnesses.
22. I'm also asked about my daybook extract in relation to "3 May 2015" (PS09164). Under the heading "1410 – Gold Meeting" on page 5 I note "*Status of officers concerned are witnesses.*" I have recorded that but I don't recall the conversation.
23. I'm asked whether I was aware of any consideration of or discussion of investigating criminality on the part of the police officers either at this point or later. No, I do not recall any discussions about that.

Seizing of clothing and equipment

24. I'm asked about the notes in my daybook regarding the 1130/1140 Gold Group Meeting. It says, "*Police property and equipment - baton and CS - clothing? – seized - external clothing only.*" I don't recall that discussion about the clothing being seized now. I've clearly jotted that down there, so I assume there was a conversation about it. But, over and above what's in my book, I don't recall the conversation. I am asked whether my role in relation to welfare of the officers would involve explaining why decisions such as the seizing of their clothes were being made. My role in terms of the welfare was going to be in the aftermath of the PIP procedures. It is my understanding that any requests from the investigation team would be routed through the PIM and anything that required to be explained or questioned by the officers would be done as part of the PIP process. So in answer to that question, no, it was not part of the welfare role I was asked to perform.

Examination by Forensic Medical Examiner

25. I'm asked about the examination of the officers carried out by a forensic medical examiner, Gillian Norrie. I'm asked if I was aware of a decision being made to have her come and examine the officers. No. I don't remember that but then, in terms of the role that I was performing, I was not involved in those discussions and decisions.

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Delivery of death message to the family

26. In my operational statement (PS00643) states at page 2, *"About 1645hrs. same date. I was contacted by DS Dursley informed that two CID officers (DC's Mitchell and Parker) had attended at the home of the deceased's family and were faced with a confrontational atmosphere. Both officers returned to Kirkcaldy Police Office following the meeting and updated myself and C/Supt McEwan. It was evident at the time that the officers had been supplied with a preprepared brief with which to update the family,"* I'm asked was I aware what the content of that brief was that was provided to the family, whether in advance or in the aftermath. From my recollection, I wasn't aware beforehand. I think the first I was aware was when they came back and explained that they'd been to the family's home address, and they'd faced a number of questions that they were unable to answer. It was at that point I became aware that there had been a pre-planned brief. I'm asked if I saw the wording of the brief that had been provided to the officers to give to the family either because it was written down or perhaps, I had been told what the brief said. Possibly. I seem to remember being aware it was quite a short brief, six or seven lines from recollection, I'm assuming from that that I must have seen it written down. However, whether I actually had an opportunity to read it or I've simply been aware of it, I'm not sure. I'm asked whether the officers told me who provided that brief to give to the family. They possibly did, but I don't recall now. I'm asked whether I remember having any concerns about what the officers were told to tell the family. Nothing that I can remember.
27. I'm asked about training for police officers to pass a death message. The investigation of death is a core function of a police officer and training begins as early as the initial training on recruitment through the Scottish Police College. That training will not only look at the responsibilities of the police to report death to COPFS, but also how to deliver death messages and dealing with bereaved families and next of kin compassionately and sensitively. In terms of my training over the years, it commenced back when I joined as a constable and I attended numerous deaths with my tutor who was experienced in dealing with families and passing death messages. I learned a lot from them and also from formal training such as detective training courses, first line manager training which have elements of death investigation and support available to

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the bereaved. In short, all officers will receive training which will touch on passing death messages.

28. I'm asked if, in my experience, what preparation should be done by officers in advance of going to meet with a family to pass a death message. This can vary. Sometimes there can be little time to prepare simply because the nature and circumstances of the death have not allowed it. What I mean by that is we operate now in the knowledge that details of an incident very quickly become known in the public domain and often through social media, We aim to trace next of kin, in person, as quickly as possible to prevent them finding out through other means and this also enables us to support them as quickly as possible. If you consider the case of a fatal road traffic accident which has just occurred, there is a pressing need to identify the deceased and locate their next of kin. The next of kin may not live in the area of the accident and we would need to make that request to another force area. That of course is often reciprocated and in these cases we will have little information about the accident or the deceased and their family. Officers will do what they can to understand the needs of the family before they attend but there are occasions where they will be asked to attend urgently with limited information. There will be occasions when we have more time to check our systems and understand if the family are known to us or the local social work department or GP for example, so we can better understand the family background. In terms of other preparation, they will rely on their training, experience of dealing with bereaved families and their interpersonal skills to act sympathetically and professionally.

Advice from Gill Boulton

29. My statement goes on to say at page 2, *"C/Supt McEwan and I agreed to attend at the family home to attempt to answer some of the questions being posed by the family to alleviate some of their concerns. C/Supt McEwan and I spoke with Gill Boulton (Force Equalities Unit) prior to our attendance to ascertain any cultural issues in advance of the meeting."* I'm asked what cultural issues were identified by Ms Boulton and discussed with us. I don't recall. From memory, I think it was a generalised awareness of culture as opposed to anything too specific. I note my PIRC statement dated 18 June 2015 at page 3, states that *"Before the meeting took place with the family Mr McEwan, myself and Gillian Boulton had a meeting in my office. Gillian Boulton is the Force Equalities Officer. The meeting related to cultural awareness matters. By way of example it was made known to us that given that the family were Muslim, it should be*

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the case that they would expect Mr McEwan to take the lead in conversations with the family. I also recall that it may be the case that the family members would not shake my hand." I believe that this comment was noted in response to a direct question I was posed by the PIRC about that. If I've said that, that's the best I could relay. I don't remember any details of the advice we were given now.

Visit to the Bayoh family

30. My memory of this visit is outlined in my statements dated 18 May and 18 June 2015. Chief Superintendent Garry McEwan took the lead in the meeting. He was doing the majority of the speaking and I was there to support him and understand the family's concerns. My role as the Local Area Commander was to monitor the impact of the incident on the family and the community more widely. I recorded details of the discussion with the Bayoh family in my police notebook. I recorded these notes when I returned to Kirkcaldy Police Office after the visit. I did not take these notes during the meeting as I did not think it was appropriate to be jotting down comments when we were in discussion with the family and they were posing numerous questions to us both about the events that morning. The notes I took were very much my recollection of the questions that were posed to us and the responses we provided. I recorded these as soon as I got back to the office.
31. My notebook entry for this visit is as follows (PS18481, PS18482, PS18483): *"Attended [REDACTED] at about 1830 accompanied by C/Supt. Numerous family [REDACTED] Some introduced Ade (brother-in-law), Sister Kadi, partner Colette, her mother. C/Supt took lead and explained that purpose of visit was to provide them of our understanding of events from a police perspective. Emphasised that this was not a factual account but what had been provided to us to date. Explained that this was fluid and many people were still to be seen. C/Supt explained to all present that about 0700 this morning a number of calls were received by the police from members of the public about a black African man in possession of a knife on Hendry Road at its junction with Hayfield Road. Officers had just commenced duty and left from the police station. Attended the scene and during his apprehension, CS spray was discharged and batons withdrawn. During this officers became aware that Shek had lost consciousness. They administered CPR and called for an ambulance. Shek was PLE'd at 0904. C/Supt explained role of the PIRC to undertake the independent enquiry and were in attendance at KPS and would make contact with the family to inform them of their role.*

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Number of questions were posed by the family: (1) Why this was the first of them being told that Shek's death involved contact with the police? (2) Why did the police not disarm him? (3) the family have been told that there were 15 officers in attendance. Why did it take 15 officers? (4) Why have the police take Arran Crescent as a scene? They have fears that officers will 'plant' the knife. (1) C/Supt could not comment on what the family had been told to date (2) No response given (3) No confirmation of numbers given. C/Supt said he believed at least 6 officers but this was not available to him to confirm. (4) Again, unable to confirm but explained that he would contact PIRC to assist in retrieving baby items i.e. baby milk, nappies for child of deceased. Overall, family members extremely distraught, angry and frustrated by lack of information. Ade requested that C/Supt contact him tomorrow and requested that we do not release any information to media as Shek's mother had not been contacted and other family members were trying to contact her in Croydon. 1920 approx – C/Supt and I left and returned to KPS."

32. I am asked about the wording in my notebook and in my statement and their similarities to the wording used by Garry McEwan in his description of the meeting with the family, specifically the use of the words "understandably distraught" which we both use in our statements to describe the family. I am asked whether I shared my notes or drafted statement with Garry McEwan when he was preparing his operational statement. I have no idea when he drafted his statement or whether he took his own notes in the aftermath of the meeting. I can't remember if I specifically did, but if he asked to see my notebook entry with the notes I took from that meeting I would have shared them and had no reason not to. They were taken as a record of the meeting to the best of my recollection and recorded as soon as practical after we returned to the police office. Like me, he was not taking notes during the meeting itself. Because he took the lead in the conversation I was better placed to recall what was asked and the responses he provided.

Role in relation to the nine officers

33. I am asked to describe what my role was in relation to the officers involved in this incident in terms of the type of responsibilities that I had in the days that followed. My role for the welfare of the officers included everything from ensuring they had access to support services to how we were going to facilitate and arrange their return to the workplace and back to operational duties where possible. I was aware that all of the

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officers involved had their external clothing seized, which including their personal protective equipment, I think in some cases this also included their footwear. So there was logistical challenges with having their equipment and clothing replaced as without it they were unable to deploy operationally. We devised individual welfare plans for each officer. This was bespoke to them and their needs. You have to bear in mind that each officer had been impacted differently. In the days that followed, it was very much about taking each officer individually and looking at what they required of the organisation and of us as their line managers, That included referrals and signposting to more professional welfare and counselling services and to ensuring they had the right support and advice. Some preferred and opted for more contact and support than others. It was very much a case of gauging what each officer wanted and required. Alan Seath was the local community inspector for Kirkcaldy and worked alongside me. He had the role of directly overseeing all the welfare plans for the officers involved and he would make me aware of any issues raised or requests made. The welfare role I had extended further than the officers directly involved in the incident itself. All officers and staff at Kirkcaldy had been affected in some way by the events and the majority of our staff live in the community too. Their safety, welfare and wellbeing were also at the forefront of my mind. It was important that they were kept informed about the investigation and equally reassured. They were understandably concerned about their colleagues and they were continuing to attend calls, assist members of the public and perform their duties whilst all of this was ongoing.

34. I've had sight of my daybook extract dated 12 June 2015 (PS09174). This appears to be a list of times on which each of the 9 officers involved in the incident at Hayfield Road were contacted by me. I'm asked whether my role in relation to welfare included keeping the officers up to date with decisions or developments. Alan Seath and local line managers had regular contact with the officers involved. I had fairly infrequent contact with them. All officers had an identified point of contact. Those contacts would escalate anything to Alan Seath. In turn Alan would provide regular updates to the Community Impact and Reassurance Group.
35. I have been shown an extract from my daybook from 5 May 2015 (PS10011) at page 4. There are notes of a meeting with Chief Superintendent McEwan, Superintendent Milton, Amanda Givan, Scott Maxwell, Alan Paton, Craig Walker, Ashley Tomlinson, James McDonough, Nicole Short, Kayleigh Goode, and Daniel Gibson and myself. I

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have been asked what the purpose of this meeting was. The heading in my notes is "staff meeting". Just reading through the notes now I can see there is discussion around concerns about the media reporting from the officer's perspective, the outcome of the post mortem is discussed and it appears the officers had been advised of that by PI Kay prior to the meeting. The officers are assured that any approach by PIRC will come through consultation with the Federation. It appears to me that the meeting was to enable the Chief Superintendent to provide the officers with an update and to allow them to highlight any concerns. I'm asked if I had direct dealings with PIRC myself or whether Garry McEwan had direct dealings with them. These updates are coming from individuals present in the meeting. The fact that I've jotted it all down suggests I didn't know that. Certainly, I was not liaising directly with the PIRC.

36. Amanda Givan is noted to have stated that they will *"await full outcome of PM and tox prior to any statements being provided. Offer of legal advice"*. I'm asked if I have any recollection of this or any discussion related to this. No. I don't recall the conversation now. I have also been asked about the section that states, at page 6, *"The C/Supt emphasised his role as lead community impact tensions. No officer has been suspended. Officer equipment has been seized, and Alan Seath is working to ensure replacements."* I have been asked if I have any recollection of this or the any discussions around it. No, I don't.

Community Impact Reassurance Group (CIRG) Meetings and Lay advisers

37. I am asked about the relationships between Police Scotland and minority ethnic communities in Fife prior to this incident on 3 May 2015. I would describe the relationships as very good. I base that opinion on the various contacts and engagements I've had with our ethnic minority communities over the years and the work that Fife Constabulary and latterly Police Scotland carried out as part of our community policing model.
38. I'm asked about the lay advisers that were involved with the Community Impact and Reassurance group and the fact that, at times they seem to have insufficient information to carry out their roles. I felt they were frustrated and hampered by the lack of information we were able to provide them. They had questions that they felt knowing the answer to would assist them in providing advice. I think it definitely frustrated them that they would ask questions of us in that group, and I genuinely couldn't answer.

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I couldn't answer because in most cases I didn't know the answer. One such example of was not knowing the faith and background of Mr Bayoh. We had made the request through the MIT to the PIRC to have that information but I never received it. That then limited what they could suggest or recommend.

39. In my PIRC statement (PIRC-00208), at page 4, it states *"In my role and in the aftermath of Mr Bayoh's death I have had meetings with independent lay advisors. In general these meetings dealt with issues regarding cultural matters including what to expect in the run up and during the course of a Muslim funeral. Likewise, the advisors make it known to police that there was a perceived view in the public domain that there was a lack of information concerning the circumstances of Mr Bayoh's death."* From memory, it was probably a combination of the lack of media reporting, lack of information coming from the police and, in general, in terms of the lack of information in the public domain. I think they felt, when giving advice as part of that group, that other than giving general advice, the specifics of this incident weren't known to them. They weren't, in effect, known to me either because clearly we were not involved in the investigation. So my recollection of some of those meetings was, not knowing the specifics and background, and not having fuller information about the incident itself made their role more difficult in terms of providing advice.
40. I'm asked about the Community Impact Assessment (PS10193), and the section dated 6 May 2015 under elected members' update: *"Two elected members express concern at the amount of speculation both in local communities and media around the circumstances. Chief Inspector Shepherd explained that PIRC were investigating the circumstances and that Police Scotland would not be providing any media releases. Elected members emphasised that they had been unable to provide any information to their constituents owing to a lack of information about the incident itself. Some have been asked if the incident was CT-related and if the officers were firearms officers. Chief Inspector Shepherd was unable to comment."* I'm asked why I couldn't confirm that it wasn't counter terrorism related and that the officers were not firearms officers at that point. My recollection is that Police Scotland was not engaging with the media at all. There was nothing going out. The engagement that I had with community reps, elected reps, and councillors was really succinct. If there was a form of words, I would've had it written down somewhere as to what was said, but really I was never going to elaborate on anything.

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41. I don't recall the conversation at that meeting around about firearms now. What I would say is that some of those officers could have been trained firearms officers for all I knew. Officers have a range of specialisms and whilst they were not deployed in a firearms capacity that day, they could have been trained firearms officers. For that reason, I would not be speculating when I wasn't in possession of all the facts.

42. I'm asked about a Community Impact Assessment PS10193, within which there are details of a Lay Advisors' meeting [REDACTED]. This records: *"Chief Inspector Shepherd said that the Daily Record had contacted Police Scotland with a series of questions, which the paper were requesting responses to, in relation to the death. The Chief Inspector detailed that Police Scotland were not in a position to make any comments to the request as the matter was being investigated by PIRC.*

Dukurno said that making no comment could be viewed with suspicion by the public. He suggested that it may be prudent for Police Scotland to provide an account of the role of the PIRC and the reason why Police Scotland cannot make any comments about the case to the media, rather than having no dialogue with the press whatsoever. Chief Inspector Shepherd said that she would contact Corporate Communications to discuss this matter further and that she would report this back to the group at a later date. Sayed agreed that the public would benefit from more information and asked whether the police were using social media. Chief Inspector Shepherd said that at both a national and local level the police were very good at using social media however were completely restricted in posting using the medium in relation to the death because the investigation was being conducted by the PIRC. Dukurno mentioned that it may be useful if the Police Federation made a further statement covering the role of the PIRC and the reason that Police Scotland could not comment about the investigation. He went onto remark that it was important that the police officers, working in the community, were briefed in relation to what they could say when asked. Chief Inspector Shepherd said that she would contact PIRC in relation to a form of words that could be used in such situations." From memory, any communication, including internal messaging, about the incident was routed through our Corporate Communications Department. If anything was released it would have required to be approved and issued by them. I cannot recall now what messaging went out to staff.

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43. The document goes on to provide a summary of the Community Impact and Reassurance Group Meeting at 12pm on the same date. It states that I provided a summary of what had been discussed during the meeting with the lay advisors and it note my *"intention to contact Corporate Communications to discuss whether consideration could be made for a press release to provide clarity in relation to the position of Police Scotland and the role of the PIRC, in relation to the death. Superintendent Milton suggested that she contacted Andrew Walker from Corporate Communications to discuss the matter. The Chief Inspector then read an extract from a copy of the article in the Daily Record dated 22/5/15. Superintendent Milton thought it likely that there would still be no comment from Police Scotland, after the Chief Inspector discussed the matter with Corporate Communications, but perhaps Police Scotland could provide further clarity in relation to the rationale for this stance"* I have a vague recollection of concerns raised about the Daily Record article but no memory now of the detail. I can see from my day book entry on 22 May that I've noted an action point 4 which was for me to speak to Corporate Comms about the media reporting. I can't be certain but I've no reason to think that I didn't complete this action. I am unable to say if there was any response by Police Scotland but I don't think there was as we were not issuing media responses at that point in time.

Use of Force Forms

44. In relation to use of force forms, I'm asked whether I have any recollection of use of force forms being discussed and the need for them to be completed. I do have a recollection of them being discussed and the requirement for them to be submitted. This was not specifically on 3 May and from memory it was in the days that followed.
45. In terms of my own experience in Police Scotland, I have been asked what was the usual process for the completion of a use of force form in 2015. A Use of Force Form would be completed if an officer performed a baton strike or deployed CS/PAVA. In both cases, a Use of Force form needs to be completed before the officer terminates duty. In the case of CS/PAVA there is a legal requirement to report this to PIRC within 24 hours. It's an electronic form that's completed now but I can't remember if that was in place in Fife Division in 2015 or not.

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46. I have been asked whether I've completed a use of force form or a CS spray form, in my position as a supervisor of other officers for one of my officers because they've not been able to do it themselves. No, I haven't. I'm asked if I am aware of that practice, that the supervisor can complete it on behalf of another officer. Yes, that may be reasonable in the circumstances such as an occasion where the officer is unable to, for example due to injury. It's not standard practice and it would be the exception rather than the rule.
47. I'm referred to a chain of emails (PS03246). The first email in the chain is from PC Stewart Jenkins, on behalf of Sergeant Jim Young on 6 May 2015 to Alan Seath, noting that CS Spray or PAVA suggesting discharged by Nicole Short on 3 May 2015 and requesting a CS/PAVA discharge report and use of force form as these were outstanding. This is then forwarded to me from Mike Stevens on the same date. Later that day, I see I respond to Mike Stevens stating that *"Supt Edmonston has taken a task from the meeting today to speak to someone from OST Training regarding the timing of this etc."* I've had sight of the minute of the Community Impact and Reassurance Group (CIRG) on 6 May 2015 at 1300 hours (PS17958), states at page 2 under the heading "staff welfare": *"It was noted that there had been a request for the use of force forms to be submitted by the Officers involved. Supt Edmonston will speak with the requesting unit."* In the email chain (PS03246) continues with an email at 6 May 2015 at 17:04 from Superintendent Edmonston saying: *"Supt Alan Gibson is going to deal with this and hopefully ensure there's no ongoing expectation on us to complete a PIRC notification in this instance given the circumstances and PIRC involvement."* I'm asked whether I remember what, if any, final decision was made about the use of force forms between PIRC and Police Scotland. While I remember the discussion going back and forward about the requirement to have the forms completed, I don't know what the final decision was.
48. I'm shown an extract from my daybook (PS05700) dated Wednesday, 20 May 2015. I'm referred to text on page 3 which states *"Use of force forms required."* This appears to fall under the heading of my notes on the Community Impact Reassurance Group (CIRG) Meeting on that day. I've written that down so it's clearly been discussed in some form. It's not clear from my notes if that's a decision or if that's just a conversation that's taken place at that meeting. I've been given sight of the CIRG meeting minutes (PS09819) of that date and under factual update it is recorded: *"DI Wilson confirmed at this time there was very little factual update to provide. He confirmed that the PIRC had requested the notebooks from all Officers involved. There was also a question surrounding the*

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submission of the use of force form and the reason for its delay in being submitted." This doesn't jog my memory and I am unaware of how this matter was concluded.

49. I'm asked whose responsibility is to ensure that was done. My understanding is that it would be the officer's responsibility to complete the form. If they were unable to complete it, then it would be for their supervisor to complete. Clearly it needs to be someone who has a knowledge of the incident. I've been shown a memo dated 1 April 2013 from the Assistant Chief Constable to divisional commanders across Police Scotland (PS11500) saying: *"From 1 April 2013, there is a legal requirement for the police service of Scotland to ensure compliance with the Police Public Order and Criminal Justice Scotland Act, and that means in every occasion where CS incapacitant spray is discharged operationally, there is a legal requirement to record the incident and report onward to PIRC within 24 hours."* The memo then outlines the form that is to be completed, advising the form will be: *"... available on the intranet from Monday, 1 April, and must be submitted as soon as reasonably practicable after the incident and no later than the end of the discharging officer's tour of duty. If the officer is unavailable, then a supervisor must arrange its completion."*
50. In terms of this memo, it's not definitive in terms of who the supervisor is because normally there are many supervisors on duty. In a practical sense though this would normally be the officer's immediate supervisor, so if it's a constable then their sergeant should complete. If it's the sergeant who has discharged CS/PAVA then it would be their Inspector.

Injury on Duty Form

51. I'm asked about an injury on duty form that was completed in relation to Nicole Short (PS17276). This has the following summary of an incident: *"Numerous calls were received from members of the public regarding a male walking in the Hayfield Road area of Kirkcaldy carrying a knife. On arrival at the locus, the male approached the officer aggressively and, despite repeated warnings, CS/PAVA was deployed, which had no effect. The male thereafter attacked PC Short, kicking her to the ground, kicking her to the head, and stamping on her body. The male was eventually restrained by a number of officers."* The form is stated to be submitted by Alan Seath at 14.17 on 4 May 2015. Alan was the community inspector at Kirkcaldy. My recollection is Alan has completed this as the supervisor as per the Use of Force SOP. It requires a line manager comment

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and the way the electronic system works (or worked at that time) was it can't be sent without being endorsed by another supervisor. Because Alan submitted the form then it automatically came to me as his supervisor. As soon as he pressed "submit", it would have come into my work basket for approval. It's at that point I would be aware of it sitting for my approval. I've never filled one of them in before as a line manager, simply because that wasn't the process when I was a constable or a sergeant – it wasn't automated like that. Under line manager's comments, I state *"The synopsis provided in relation to the event is not a factual update given that the officer concerned have not provided statements about the incident which is under investigation by the PIRC."* I refer to this in my PIRC statement (PIRC-00208), at page 4, explaining that my comments here are based on information derived from a factual update at a Gold Group meeting and are not based on any meeting with or comments made by Nicole Short.

52. I'm asked why Alan Seath took on the role of filling out this form for Nicole. I do not remember the background to this at all but Alan was a supervisor at Kirkcaldy and he was performing the lead role for the welfare of the officers. If the officers and their supervisor were unable to complete the form, I would say he was then best placed to ensure its completion. I have been asked if I spoke to Alan about the completion of this form and about the information that I put into it. I don't recall speaking to him. There's every chance that I did because it was unusual for me to be filling it in, but I don't recall the conversation if we did.

Training

53. I have been asked if I have ever undertaken training as a family liaison officer. I'm not trained as a FLO. I have experience of working with family liaison officers, in particular deploying FLOs as a senior investigating officer. The role of a family liaison officer is included in the national SIO training and I have frequently worked alongside FLOs in serious crime investigations. I have been asked about what training or experience I have of dealing with bereaved families. Similar to my response to officers delivering death messages, the investigation of death is something officers deal with on a daily basis. We deal with bereaved families frequently and training starts from the moment we begin our policing careers. I've personally dealt with bereaved families throughout my 29 years' police service in various capacities: as a uniformed response officer tasked to attend the initial report; to investigating unexplained or suspicious deaths as a detective constable;

Signature of witness.....



to overseeing more complex death investigations as a senior investigating officer. So, yes, I would've say I've had a fair bit of experience with bereaved families.

54. I'm asked if I'm aware of any training run by Police Scotland or sharing of information within Police Scotland in terms of learning lessons from other police forces. Yes, that's quite common and often comes to light from reviews, inspections or incidents that have occurred in other areas. I have attended many inputs and courses over the years where external speakers from other agencies or police forces have shared their experience of dealing with crimes and investigations. More often than not, this includes lessons learned.
55. I'm asked about Police Scotland's training on racial awareness and equality and diversity. I would say that the amount of training will vary depending on the length of service the officer has and the roles they've performed. Some will have more exposure to this than others. What I mean by that is I have performed roles in Police Scotland specifically on the equality impact assessment process so I have a lot of experience in that regard. Equality and Diversity is threaded through the syllabus in many courses I've been on for example detective training. This has included inputs and live play exercises specifically focussed on investigations where equality and diversity issues exist. Training for new recruits at the Scottish Police College includes racial awareness and EDI so they are provided training from the very outset.
56. I have also been asked about training in relation to liaison with next of kin where there's been a death. Similar to my previous answers, all officers receive training on dealing with death and bereaved families. Family Liaison Officers receive additional training to perform their role but all officers have received some form of training.
57. I'm asked if Police Scotland have any specific training in relation to media engagement, and whether that's available for senior officers or for officers below the rank of inspector. The amount of training officers receive in relation to media engagement will vary and is not solely based on rank but also because of the type of roles officers have performed. All officers joining the police force are provided with inputs on media engagement. My experience of media training comes from years of detective training, first and second line manager courses and Leading Critical Incidents training. That's not so much rank specific as role specific.

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Media

58. I'm asked whether I had any concerns about Police Scotland's approach to the media during this incident in particular Police Scotland's general "no comment" stance to things that were being reported in the media. I think it was appropriate in the sense of how this investigation was being led. It wasn't being led by Police Scotland, so I understood why we took that stance. There were times when that made things difficult for me in my role. Some of the groups that we were engaging with would have liked more information to be able to answer or qualify some of the comments being made publicly. The issue was that we were not privy to all the information, so we were not in a position to respond. It would have been unwise to speculate or issue comment that could later prove to be incorrect or have the potential to compromise the investigation. The officers directly involved and other local staff were reading and seeing things in the media that were concerning them. Part of my role was ensuring they understood the reason that we were not issuing responses for the reasons I've already explained. At times that was difficult as the officers themselves were being identified and there was speculation and inaccuracies in what was being reported.
59. I have been asked about an email from Ian Macintyre from PIRC to Police Scotland (PS09864) which is eventually forwarded to me in relation to racial, derogatory remarks made on the Justice for Sheku Bayoh Facebook page. I don't recall the specifics of this incident. As a local area commander, I was overseeing all reported crime in the area and my assumption is this related to an incident in Kirkcaldy which was requiring a response or investigation. I don't remember now who I passed this on to for assessment, but it's likely it would have went to either the detective inspector or community inspector to look at in the first instance. If it was assessed as a crime, it would be recorded as such and investigated.

Miscellaneous

60. I have been asked if I have ever undertaken training to be a post-incident manager? No, I haven't.
61. I have been asked if I have ever had any dealings in a death following police contact or a death in police custody other than this incident. Yes, I have but only in my capacity as a senior officer and mostly in the last 3-4 years. I'm asked whether in the cases that I was involved in, whether operational statements were not provided by the officers involved. I

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couldn't comment on all the individual cases. From my recollection, statements were provided. I could not say with certainty that it's never happened, but I'm not aware of it.

62. I'm asked whether in any cases where it's been a death following police contact, and the police contact has involved some kind of use of force, whether there were any occasions that there was any delay or failure to complete use of force forms or CS spray forms. I'm not aware of any delays or forms not being completed.
63. 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.

February 7, 2023 | 10:26 PM GMT

Date

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