

**The Sheku Bayoh Public Inquiry**

**Witness Statement**

**Garry McEwan**

**Taken by [REDACTED] on MS Teams  
on Tuesday 13 December 2022**

**Witness details**

1. My full name is Garry McEwan. My date of birth is 1971. My contact details are known to the Inquiry.
2. I retired from Police Scotland in April 2021. I retired as a National Policing Commander. I was head of Criminal Justice Services Division with oversight for Criminal Justice related matters and Custody provision across Scotland.

**Previous statements**

3. I provided a response to a Rule 8 request by the Inquiry dated 3 May 2022 ([REDACTED] (SBPI-00075)).
4. I also prepared my own statement (PS03136). I don't know the exact date for this. It was before 30 July 2015. I know that because I put dates in the bottom that showed that was my next leave period.
5. Preparing a statement is a common occurrence. If the incident is ongoing my usual approach is to begin a rolling police statement to build it contemporaneously as I go. It's an accurate reflection of what happened. This

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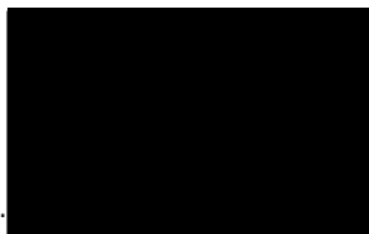
incident was an ongoing process which started on 3 May 2015 to the date I submitted the statement to the PIRC.

6. Thereafter I provided two statements to PIRC in interviews on 24 June 2015 (PIRC-00181) and 23 January 2018 (PIRC-00182).
7. I remember giving these statements. From memory, I believe they had a copy of my own statement.
8. I gave PIRC a true and accurate account to the best of my recollection at the time. I believe I read over and signed the statements. I'm pretty sure they would've got me to do that. Most definitely my memory was better then than it is now, nearly 8 years later.

**Notebook and daybook**

9. In 2015 I did keep a daybook. Once completed I handed in the daybook to the DCU. I don't recall there being a formal policy around keeping a daybook or the retention timescales for them. The books would just get destroyed as per ongoing administrative retention procedures whether that be on annual or longer basis.
10. I understand that Police Scotland are unable to find my daybook to provide to the Inquiry. I have not had access to my daybooks since I retired.
11. I did keep a police notebook, but I would only ever use that if I was going to do a police conduct investigation or note an official statement. The job I was doing in 2015 I would very seldom need a notebook. During this enquiry I confirm I never required to use my Police Notebook.

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### **Role on 3 May 2015**

12. My role on 3 May 2015 was the local policing commander for Fife. When Police Scotland was created in April 2012, they created a number of policing command areas across Scotland. One was Fife Division which was coterminous with Fife Council local authority. When we moved to Police Scotland in 2012, I was appointed the local policing commander for Fife division. I maintained that role until after June 2015.
  
13. My policing responsibilities at that time were vast and varied, including strategic oversight for all significant crime and incidents across Fife as well as line management for all Police Staff and officers who worked within my Division. I was lead for strategic partnership engagement with key partners such as Fife Council CEO, NHS Fife, Fire Service and other very important 3<sup>rd</sup> sector partners across the community. As local policing commander I was responsible for liaison with politicians, media for key incidents and was the direct link to Chief Officers.
  
14. I had responsibility for setting the strategic policing direction in Fife whilst exploring collaborative opportunities with the other public bodies such as the local council and health board to reduce deprivation, improve safety and security for the residents of Fife.
  
15. Perhaps of direct relevance for this Inquiry is that I established an independent advisory group with had a number of key people and partner agencies from minority groups across Fife and indeed nationally. This group was used by me as a trusted forum where I could engage with and learn from minority groups, their experiences of policing and beyond. I also had direct involvement with a number of organisations representing minority groups in the area. Sensitivity to the needs and interests of those groups was important to me personally, and to my role.

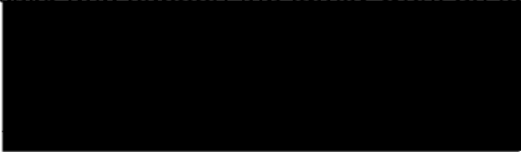
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16. I had oversight of all major crime and incidents in Fife and would engage with other Police Commanders to share best practice and secure additional resources as required.
17. In addition to this, my role included a number of on call commitments. From 2009 I was a trained Strategic Firearms Commander and part of this role required me to cover on call commitments across the East and North of Scotland 1 week in 5 or 6.
18. The role was primarily to take oversight and as necessary ratify or rescind ongoing firearms response in relation to incidents that were ongoing or pre planned across the North and East of Scotland. The role would require me to come out at the weekends and take oversight of any firearms incidents which arose as well as having oversight of any significant crimes that had taken place during that period.
19. The purpose of being out on the morning of 3 May 2015 was to fulfil my role as on call firearms commander and to have awareness and oversight of significant crime and incidents which required additional scrutiny and support.

#### **Command structure**

20. The Command structure was Ruaraidh Nicolson as Gold, me Silver and Lesley as the lead for investigation. I had responsibility for Community Impact, staff welfare and to ensure sufficiency of resource was available to assist with this enquiry as well as maintaining a proportionate policing response for all other policing matters that were ongoing. Policing 'Business Continuity' if you like. The investigation moved from the Police to the PIRC pretty quickly on the 3<sup>rd</sup> but in my mind my responsibilities remained for a period thereafter. In fact, my proactive contact to assist and support the family went on for some time.

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21. I wasn't appointed by anyone, not that I can recollect. Ruairaidh would not have said I was appointed Silver commander, you just fall into your role. Ruairaidh was my boss and I knew he was the Gold commander. You naturally fall into your role, from training and experience. We engage in circumstances that require a similar structure on a weekly or monthly basis, so you fall into your roles pretty quickly and you know what you're doing. I've worked with Lesley in a number of enquires so we definitely understood our roles.
22. I am asked to explain the roles. Bronze gets into tactical. Silver and Gold are looking at more strategic issues in a major incident. Bronze is engaged in the operational decisions.
23. I pulled together a community reassurance group because in my view with the potential for community unrest and tension a group of this nature was required. The purpose was to engage, reassure and to understand the causes of emerging pressure points so that it could be managed and mitigated in the interests of the whole community.

#### **Understanding of the incident**


24. I was sitting in my office in Glenrothes Police Headquarters and CI Chris Stones gave me a call on the phone. My recollection is that the briefing was simple. There were multiple calls of a male in possession of a knife. At the point of contact between the police and the male, the male had fallen unconscious and was taken to hospital.

Chris was brief and from the tone in his voice, I could tell it was a bit of a different conversation. I could sense the worry in his voice. I sensed I needed to ask for more detail. I asked the ethnicity of the individual and he said he was a black man. That detail was important to know because it played a part in my later decision to declare a critical incident. I said I'll jump in the car and head

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down to Kirkcaldy and asked for a further update as it progressed for the next hour or so.

25. The lead for the incident at that time was Inspector Stephen Kay. Stevie was the PIO and I established that from Chris. Inspector Kay was on duty at Kirkcaldy and at that time he had command of that incident.
26. The investigation was thereafter led initially by the MIT and thereafter handed over quickly to the PIRC.
27. To explain, with a fast-moving incident such as this, the initial command sits with the PIO who has immediate oversight. The minute that the male is taken to the hospital or pronounced life extinct, it's a different phase and handed over to the MIT and thereafter to the PIRC.
28. My role was as local policing commander. Not Firearms Commander. For me there was an immediate concern about the welfare of my staff who had been involved in such a tragic incident as well as ensuring Fife Division could continue to police Fife Communities as best we could in relation to other incidents with a depleted resource.
29. About 9am that morning ACC Nicholson convened the usual operational meeting. At that meeting we discussed ongoing incidents/crimes that were serious. That is the purpose of the meeting. At the end of the meeting, having dealt with other urgent matters, we turned to discuss the ongoing incident in Kirkcaldy. Long story short, we had a discussion about this incident. I spoke to CI Conrad Trickett and asked him to travel down to take over PIM procedure for the staff.
30. This meeting took place after I had been informed of Sheku's death and after I had declared a critical incident. I wasn't made aware that Sheku had passed until 9:08am. I then declared critical incident at 9:10am. I would've had the

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formal conversation with Conrad after he'd passed away. We had a death following police contact and immediate welfare concerns and issues.

31. Conrad was in Aberdeen from memory. Conrad needed to travel down and take that role as Post Incident Manager. At the time, it was probably the first time that we'd decided to do that in Police Scotland for a non-firearms related incident, to put in formal PIM procedures. We had to make it as comprehensive as it could be and the PIM was appointed to do that.
32. I can't remember Ruairaidh Nicolson's role in appointing Conrad. I would've told Ruairaidh I was going to do it. The appointment wasn't recorded anywhere, other than most likely the call card which I no longer have access too.
33. This sort of morning meeting, the morning dial-in, happened at around 9am or 9:30am. It has changed over the years. It is a meeting we did via conference call and there was a secretariat for that day. Whoever it was on that day tended to take note of the actions arising to make sure they were then delivered on. There would be an events planning or operational support capturing the decision points . Whether the documentation is still available I'm not sure.
34. I would take a personal pride in staff welfare for the Fife officers. I'd say ultimately I was responsible for the care and welfare of police officers but I'd also rely on other officers with operational and tactical oversight to provide a lot of the direct support. I would expect to hear if anything was going wrong or particularly well. But lots of welfare aspects would be dealt with lower down the command. For example, say they needed new boots or equipment, I wouldn't be involved in that. Not every decision would be made by me.
35. In terms of the welfare of officers arising from this specific incident, I was expecting Conrad Trickett to take the lead role when he arrived. I knew and assumed that he would follow PIM procedures. In firearms incidents you'd put in place post incident management procedures which are a more

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comprehensive set of formal procedures. Welfare is a key element of that. Conrad would apply that in this context.

### **Critical incident**

36. I am asked why I declared a critical incident. There are a number of factors but without a doubt a key consideration of this was the ethnicity of the deceased. Calling a critical incident allows me to get access to additional police resource that I felt was necessary to manage the community, support the family and support the police officers. That's why I did it.
37. I took learning from other events across the country in which policing had been criticised for the response. One example which I was aware of was the tragic death of a Vietnamese delivery driver in Edinburgh. It was in 2009 or thereabouts. One of the learnings of that incident was it was never declared a critical incident by the police. That failure to declare a critical incident meant the police were unable to step up their response and to give it the priority it perhaps deserved. I didn't want to make that mistake.
38. Critical Incidents get the resource they require. At that point I don't know what's required but hypothetically if I needed 100 police officers from across the country, I would get it. Across Scotland there might be only 1 or 2 critical incidents a year. They are not normally declared or routine. The declaration is based on professional judgement. It alerts the highest officer in the country, Steve House at that time. It makes him aware of that incident and by default priorities and resources are then provided as required.
39. If someone's stabbed in the middle of the street you don't declare that a critical incident. You can manage with the resources you have. But if there's something bigger happening then the option exists to declare a critical incident. It gives it a national focus and guarantees awareness at a higher level.

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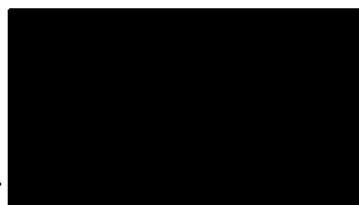


40. It wouldn't be appropriate to declare a critical incident when Sheku was unconscious in the ambulance to the hospital. People fall unconscious a lot and people make miraculous recoveries. Someone being unconscious didn't make it a critical incident. There are people falling unconscious in police cells 2 or 3 times a week. People intoxicated with drink or drugs. If they make a full recovery, I wouldn't expect anyone to declare a critical incident.
41. I saw a witness giving evidence to the Inquiry about critical incidents. I think she was giving evidence as an expert but I think she got confused. Any police officer can declare a critical incident. It's within their right. If they think that the incident is going to lead to significant impact in the confidence of the policing, they are within their right to declare a critical incident. A senior officer would then immediately become involved and review the decision. The senior officer would then reflect on whether that decision should stand or not. They might think the original reason for declaration has been sufficiently mitigated for example. Equally, the Gold commander could reverse the decision if they felt it was merited. The Gold group on the first day could review the incident. If it was no longer a critical incident that would be documented and the status changed.

**PIRC's role**

42. The role of PIRC in the incident was as an independent investigation and review of the whole circumstances. I wasn't privy to all conversations. It was a Police Scotland investigation until handed over to the PIRC, thereafter it was their responsibility. That said, there might be specialisms that PIRC didn't have. If so, Police Scotland would support where they could in this but it would be led by PIRC.

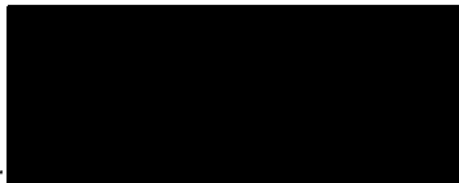
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43. I'd had dealings with PIRC before but not with the seriousness of this enquiry. I can't remember the other incidents where the PIRC came in. PIRC can review other less serious and tragic cases. There may be issues in the police that requires review, for example deployment of CS spray or use of batons. I had involvement over the years with PIRC, some before 3 May 2015 and some after.
44. In the Gold minutes for 11:30, PIRC aren't there. The first time PIRC attended was 14:40.
45. I didn't know what PIRC were going to be doing until they arrived but I expected them to come in and take overall command of the investigation. I expected them to possibly require support from our resources during the initial stage. But that would have been one for the investigation to decide. My sense was PIRC were struggling to manage the incident. That's not meant as a criticism of PIRC. They were pretty new at that point but I felt they didn't have the resources and potentially the experience in certain aspects.
46. The most important aspect for me was the community impact, reassurance, the family side of things. I wasn't overly impressed by their initial inaction in the early stages towards the family. I thought they had failed to prioritise what I thought was important which was the family, which in turn affects the community impact and the ability to give community reassurance.
47. My view was the community tension, impact, reassurance, would be led by my teams and I wouldn't expect PIRC to do that. I wasn't fully sighted on the progress of the investigation. That was for the SIO and then PIRC. So it just becomes trying to ensure close collaboration and engagement. In the early stages I wasn't reassured that they (PIRC) were dealing and engaging with the family properly. PIRC should be responsible for family liaison. They weren't providing FLOs and that was a problem for me.

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48. I am asked if the PIRC role changed. PIRC's role didn't change as far as I can remember. The scope of their investigation widened, I think. I can't remember the detail but it might've broadened a little bit. My understanding is that it was a PIRC investigation and they would be utilising some of our resources. What this would look like would be a discussion between Ruaraidh Nicholson and Pat Campbell. They would have responsibility for using and deploying Police Scotland resources. For example, if they wanted to protect the house they would tell Police Officers to go and do that.
49. I wasn't dealing with PIRC as much as other areas. I really wasn't that involved in the investigation side.

#### **Initial understanding of the incident**

50. I never asked Chris Stones more than what he told me. We might've had a discussion about the logistics. I said I'd head down. He was at Dunfermline from memory. I said to sit tight and he can have oversight of other ongoing issues.
51. The call card was the main repository to review the circumstances. When I got to Kirkcaldy, I went to see the officers a couple of times. First time most were in the canteen and I spoke to them briefly but I purposefully avoided the detail. That wasn't why I was there. I wasn't there to find out what happened. I was more about welfare, clothes, food etc. I deliberately didn't bring up the specific events before the death or after.
52. I then went up the stairs and Inspector Kay arrived back at some point and I did have a conversation with him around the circumstances as he knew it. Then what I decided to do was call out CI Nicola Shepherd. Nicola was the Local Policing Commander and had worked in Kirkcaldy for a number of years. She knew the officers and staff better than I did.

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53. Other than the call card I didn't know more detail because I didn't ask the police officers on the ground. I also spoke to Colin Robson at some point and he provided a high level overview.
54. I got a briefing in the Gold meetings throughout the day as well. DI Robson did give an overview to the Gold group of the circumstances as he understood it at that time.
55. I am asked about the nature of the incident. It's a devastatingly tragic incident but from a police perspective also quite contained. By that I mean that you had the locus where Sheku fell unconscious and his house which wasn't far away. The police officers were back at the Police Station. It was a foot on the ball moment, we were waiting for PIRC to come out.
56. I am asked about other deaths in custody where I had been involved. I had oversight of custody centres for the last 5 years of my police service and I had been involved in sadly quite a number of deaths in custody. At the outset in these I don't need to know who did what, who used handcuffs or who held which arm. If someone gets put in a cell and then they are found dead, that's all I need to know. The cause of that death is going to come out from post mortem and toxicology. I'd maybe ask what did the CCTV show us, I don't need to know any more than that. It won't enlighten or help me take a different approach, for example around things like community impact and community tension. The call card has more detail. But even that doesn't really help inform me about next steps. It's not going to change my approach to the need to consider what comes next in terms of community tension or officer welfare. That's for the investigation phase to inform.
57. In terms of this incident, I knew that Nicole had went to the hospital. I knew that either from the call card or from Inspector Kay. I asked to be kept updated. I asked if it was serious or life threatening and asked to be told when she was discharged.

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58. Stevie Kay's account corroborated the Chris Stones update. I asked for an update on Nicole. The rest of the officers were down in the canteen. My priority was to ensure that they well looked after. Conrad Trickett was travelling down and I told the officers that a process would be in place when Conrad arrives. The officers were told the PIM process was going to take place. The Federation was there meantime supporting them. Nicole was at the hospital but my memory is that it was clear by then that it wasn't life threatening. PIRC were en route. The ACC was en route. I'm was thinking that I need to let the investigation side take its course. For me the plan was to let the next couple of hours take its course with the addition of appropriate people and processes and then consider the next steps.
59. I am asked about circumstances where there had been a criminal act. If somebody had committed a glaring criminal act that would've been a different course of action. Suddenly they're not witnesses and hypothetically speaking they would be arrested. In these circumstances as portrayed to me at that time there was nothing coming out of these early briefings that would lead to any arrests of police officers

#### **Incident at Hayfield Road**

60. I have been asked about ARLS data. I've heard of ARLS data but don't know how to explain it professionally. I didn't use it. That would be for those engaged on the operational and tactical side of things and would be undertaken by officers at that rank.
61. The deployment of an ARV isn't up to me as on call firearms commander, it would be for the initial firearms commander who would be at Bilston Glen to make that decision. There's two types of firearms incident. The first is a spontaneous incident. The initial firearms commander has oversight. He or she makes an assessment. The initial firearms commander would then phone

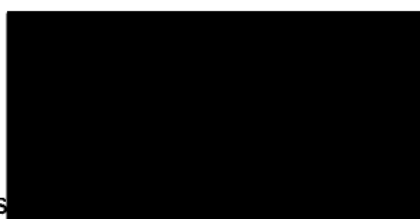
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me and then in these circumstances I would agree or disagree with the decisions taken until that point. That means I would either approve or rescind authorisation.

Or we have the second one, a pre-planned firearms incident. This could be for example an armed robbery at a bank, for example. If we have good intelligence and we've got time then we might plan the firearms response. I would review matters with the TFC and I might agree and plan the parameters and strategy around that.

62. I am asked about what would have happened if this had been a firearms incident. Had this incident been declared a firearms incident I would have retrospectively reviewed the decisions taken and determined whether the criteria for deployment of firearms had been met. This specific incident was never declared one so that never happened. So I was never involved in that. That's why the command of the incident remains with Stevie Kay. If it had been declared a firearms incident then command would've fallen to the firearms Inspector initially in Bilston Glen. That never happened in this event.
63. I am asked about equipment. In normal policing terms police officers across the country have their stab proof vest, extendable baton and potentially CS spray. That's what I'd wear. Let's say there's a riot or a demonstration that requires a police order, that's when you have shields or helmets. This type of equipment was never deployed.
64. In terms of the locus, I was briefed that the locus was protected. I didn't need to know the detail. I just needed to know the locus protection was in place. It was. I had the trust and confidence in my officers to do that properly.

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### **Status of the response officers**

65. I am asked about the status of the officers. I had no involvement in determining the status of the officers. My understanding was that the officers were witnesses to a tragic incident. That's why they were in the canteen waiting for Conrad to come down and follow that PIM process.
66. Officers are witnesses until circumstances suggest otherwise. This never changed to my knowledge.

### **Management of the response officers**

67. I am asked who was managing the response officers. The PIO, Stevie Kay, was still in charge of them at this point. They were not now operationally deployed so line management-wise it was still with Inspector Kay, but they're not deployed so it's pretty self-contained with all officers sitting in the canteen. I didn't have a role in this. If there's anything that needs to be escalated to me that gives them concern or anxiety, my officers would know to come to me, but that didn't happen.
68. I think Inspector Kay said they should go to the canteen but I am not sure. I think it was the right decision to put them somewhere comfortable and outwith the public eye. They'd been involved in a harrowing incident and you had to locate them somewhere and for me that was as good a place as any.
69. They were in the canteen when I arrived. I could've come in and said I wanted them moved but to where? There was signage up on the door. They weren't having any contact with other people. Federation reps were there to provide welfare. It seemed appropriate.
70. There are two doors from the car park. One through the canteen. There was signage at the back saying do not enter or something like that, maybe 'meeting

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in progress'. There was nobody coming through when I was there. If anyone said they wanted to move and it wasn't the right place then they could certainly have asked to move, but nobody did. Nobody was going through the canteen from the car park when I was there.

71. I am asked about conferral. For conferral, other than putting a gag on them or putting them in different rooms you couldn't prevent some possibility of that. But against that, I said when I was in the canteen that they should not talk about the incident. I said not to discuss it and to be patient and wait for Conrad's arrival. I didn't consider putting them in different rooms. I was happy where they were. They were professional people. They were told not to discuss the incident. They were devastated, tearful, upset and shocked. They weren't in a condition to discuss the incident. To separate them didn't make sense.
72. I'm not aware of any SOP on conferral off the top of my head. I don't know if any measures were taken to restrict use of mobile phones. I didn't mention anything. I actually offered that I could contact any family they wanted me to contact.
73. I am told there is a question about using mobile phones. The issue with them using their phones, that's a very general carte blanche statement. This incident happened, the use of a mobile phone afterwards is irrelevant and doesn't impact on the investigation at all. In this incident it didn't occur to me to prohibit mobile phone use. I don't see the relevancy.
74. I've not seen the mobile phone policy in the firearms PIP SOP. The SOPs give guidance to consider but obviously not every investigation or incident requires exactly the same approach. It's like in a murder investigations I'd only include certain areas of the murder manual when required. Mobile phones were irrelevant, it didn't occur to me. Guidance and policy is there but not every piece of guidance needs to be followed on every occasion.

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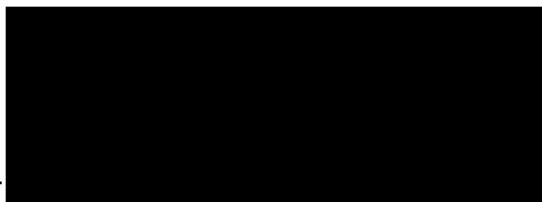


75. I wasn't aware of the CCTV not working at the back of the station. Over the years we tried to get additional funds to get the CCTV replaced across the estate because it was woefully outdated and in some places ineffective. It was requiring millions of pounds to upgrade and that was never forthcoming. In policing terms you prioritise the important area and cover areas you felt were more important. Those are cells, charge bars, reception areas, that's where you'd invest your money, not the back yard. Custodies don't go that way so it's not an especially important area.
76. I'm not sure specially who is responsible for Kirkcaldy Police Station. As a Chief Inspector of an area, if you're notified of an issue you'd drop the email to the estates manager. There may be some trail of somebody in the months or years being told the CCTV was ineffective. I don't know.

#### **Completion of paperwork**

77. I am asked about responsibility for paperwork. For me it's their immediate supervisor who tends to be responsible for ensuring that administration procedures are fulfilled. I couldn't say who the Sergeant would be. I am told it might be Scott Maxwell. I could see why the paperwork would not be a priority for Scott Maxwell, not least because he's in the same state as the other staff. I would certainly forgive him for not making that instruction. It was then fall back to the PIO as the second-line supervisor to at least say to fill out these forms. It's commonly known and clear that these things, especially use of force and spray, should be completed before the end of the shift. I don't know who filled them out and who didn't. I wouldn't be surprised if it was a disparate approach. Some of them might've been so traumatised that it didn't occur to them. All I would say is that some degree of understanding of what the officers were facing is required.

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78. I would say the officers are responsible for completing it. The supervisors are there to remind them to do it. I'm not surprised if some of them have forgotten to complete it. I wouldn't be surprised if on the day it wasn't at the forefront of their mind.
79. I am asked about whether failure to fill forms has led to escalation to senior management. I've not had a situation where it's been escalated to me about non-completion. In the last 12 years of my service issues such as these would not have been escalated to me, not as a matter of routine. With other deaths in custody I'm aware of police officers, on the advice of the Federation rep, for whatever reason don't give statements on the day in question. Some people are so traumatised that they can't give statements for 3/4/5 days. For me, it's about the best recollection of what happened rather than the fastest recollection. Their minds can be scrambled. For me, it's about being pragmatic about that.
80. It's not a legal requirement to complete Use of Force or spray forms. I don't know if it's in the guidance but it's really seen as best practice for me. There's a few elements to it. The use of spray when the form is completed it gives others the opportunity to scrutinise it for best practice. It's also good for the statisticians in Police Scotland to understand whether officers are using spray and why.
81. For operational statements, it's not about the fastest account it's about getting the best account. If officers want to take a bit of time, a few days, to get a statement I'd allow that to happen.
82. A notebook is by definition for taking notes, I don't think there's a clear articulation written down anywhere of what officers should put in their notebooks. It's for key events like noting a civilian witness statement. Other than that it's what time they started and finished. I wouldn't be noting every minute of the shift. Some officers are really comprehensive and some are less

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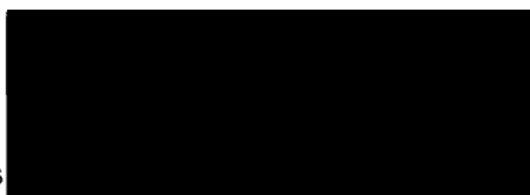
so. For me it's recording key events and is used for evidence gathering purposes.

83. I do not remember being involved in any discussion re officers completing their paperwork on or after 3 May 2015. I was aware after the fact that some of the paperwork was not completed and officers were being encouraged to do it. It wasn't something that was on my list of important priorities.

#### **Liaison with family**

84. I am asked about FLOs. I've never been a Family Liaison Officer. The role tends to be Constable or Sgt rank. When that role was brought into policing it was probably in the late 90s to early 2000s when I was a SIO. I've used FLOs a lot, they play a vital role in any serious investigation. I was never a FLO myself but I've got a good awareness of FLOs. They're critical to the ability to assist and support a family and there are really experienced FLOs that you'd use for certain types of case, for example child deaths. You'd need a certain type of FLO for that. I have utilised them many times.
85. In this specific case, the FLO's were not my responsibility. That was for PIRC and Pat Campbell to arrange as part of the investigation. That said, as local commander, in my mind I still had a role to ensure that the family were given an update as a priority. They had tragically lost a family member and it was vital, in my mind, that we were as engaging and being honest with them at the earliest possible time, without obviously compromising the investigation. Bearing in mind there may have been some sensitivities which the family couldn't be told, they could be given the key elements in a dignified and compassionate way. What became apparent to me was that they weren't getting the necessary updates and it was leading to a great deal of upset and frustration. I then took the decision to go and visit them.

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86. The background to this is important, because by the time I got involved with the family directly there was already a great deal of anger and upset. PIRC were responsible for family liaison. My point of contention in this case is that they weren't dealing with it properly. I felt like I needed to see the family because it wasn't at the forefront of PIRC's mind. On the day in question they didn't have the FLOs out, they weren't even on duty. That wasn't good enough. I raised that a couple of times directly with PIRC. Their recommendation was 'it is fine we'll see them tomorrow'. I disagreed. I said we can't leave the family overnight. They needed to be briefed and made aware. It was wholly inappropriate.
87. PIRC couldn't muster FLOs and said they couldn't deploy until the following day which I thought was wholly unacceptable. I can't remember which PIRC officer did this. Keith Harrower was my main point of contact in the early stages so I'm guessing it was probably Keith that told me that. PIRC weren't keen on deploying Police Scotland FLOs. That was their decision to make. I understood that and why they made that decision. It's not good practice to have one FLO on the Saturday and another on the Sunday. The preferred model is to have an agreed FLO and have them right in from the off. That provides consistency and builds trust. The PIRC preference was to have one on the following day. For me, waiting 24 hours before the family have been given a thorough proper update on the circumstances was inappropriate. If I was my family and there was concern about the circumstances, and I wasn't being told for 24 hours it would be devastating.
88. I watched Kadi give evidence about the fact it would have been much better and easier for the family if they had been told all we knew about the incident from the first contact. I agree. Giving them as much information as early as possible was absolutely my view. Instead, they got very limited information at the beginning and knew very little until I arrived in response to their request to visit. I gave them much more detail of what we understood at that time. That must have felt like a very big shift from what they had previously understood

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about the incident. Kadi said it would have been better for someone to tell them all we knew right at the beginning. I understand that and I agree with that. In certain cases it would not be advisable to brief a family on certain aspects of the enquiry as that could compromise the investigative process. This was no such incident.

89. Normal practice of a FLO would be deployment as soon as applicable. I've been a senior investigator and head of the CID. I was an SIO for a number of years. One of my first actions was to deploy a FLO to the affected families. That is to begin to build a trust and a line of communication. You need a good honest transparent relationship with the family unless there is something like a suspicious death where you might approach it slightly differently. In a straightforward liaison such as this I'd be looking to deploy a FLO very early.
90. The approach in a death in custody would be different in that you want to be open and transparent. If you have a death following police contact, no family involvement in the death, there's always a risk of confidence in policing being detrimentally affected. It's about building that trust with the family. If police have been in contact during the death that can damage the relationship very quickly so that's why we would want to be honest as quickly as we can.
91. Unless there's an obvious reason not to, following identification you'd want to contact the family and say the relative had died and here are the circumstances as we understood them.
92. I know that Ade Johnson has given a statement saying that he knew me and because of that he asked for me to attend his house. I was content to do so. To be honest, I was not aware of Kadi and Ade Johnson prior to 3<sup>rd</sup> May but they seem to remember me, perhaps from a previous encounter. Given my work in the community, it would quite possibly be a diversity event or something similar. They seemed to know me but I didn't know them. I didn't know their names. That's not unusual. My independent advisory group. I don't think Ade

Signature of witness

and Kadi were in it. But as the local policing commander, I went to loads of police events day and night and met many members from local communities. I maybe met them at one of those said hi, so maybe they know me as the local policing commander. In my role I'd meet many community groups and visit Mosques, churches, community centres and so forth. It was maybe Ade who said to the police officers he knew me. I, however, didn't know them personally.

93. The police officers were told Ade knew me, and that he wanted to speak with me. That's one of the reasons I decided to go and meet with them. I'm guessing it was after the discussion I had with DS Graeme Dursley at 4:45pm. Around that time.
94. I can't remember the level of detail but think the two officers who attended had been speaking to the family. My understanding was that they had been advised not to tell them anything in effect until the PIRC could get their FLOs in. The delay with the FLOs was really unnecessary and unhelpful as you had a family who didn't know the circumstances around the death of their family member and time was passing. .
95. I am asked about the death message. I can't remember the exact terms, but I do remember getting sight of the death message. From memory it was a sentence and a half long. I can't remember what it said.
96. I have been told the death message was as follows *"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."*
97. It doesn't ring any bells specifically but that sounds about right. My comments are that – and this is the crux of it for me – you need to tell the family more

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than that. There were clearly more questions that they have and from memory the police officers that were present had been told not to answer any questions. For me, that was wholly inappropriate at that time and we needed to take a more transparent approach. It had only inflamed matters. You needed to be open and transparent with the family and that was the nub of it for me.

98. I didn't have a say in the content of the message. That was part of the investigation strand. That's because the family will be witnesses in the investigation.

99. I have been asked about Gill Boulton. I know Gill Boulton. I remember meeting her. Before I met the family, I spoke with Gill who was the equality lead. Also, from my personal and professional background I hope I have a good awareness of cultural and racial sensitivities.

100. I don't recollect that the family were Muslim but that might well have been part of the discussion, I can't exactly remember. It was really basic, just informative but quite generalised in terms of things like removing shoes and whether to offer a handshake. There wasn't a lot in the briefing. I'm not sure if we discussed post mortem with Gill Boulton.

101. I am asked about the death message passed to Collette Bell. I didn't know the detail of the death message passed to Collette Bell. Nobody said to me it was done. I knew who she was. I didn't know her personally but I knew she was the partner of the deceased. I was aware she was at the police station being interviewed as a significant witness. I would expect that to be the case.

102. I am asked why she was significant. She's a significant witness because if somebody dies and the person who is their most nearest and dearest, you want a statement from them to understand movements, mindset and antecedent history. The best person is the nearest and dearest. The police station is not necessarily a normal place to speak to her but I was aware the

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police had secured the home address. You have to make an assessment if there can be another suitable place, that's for the officers and Collette to have that discussion at the time.

103. I wasn't close enough to the investigation to know if a FLO would be deployed for Collette. If the family dynamic was such that the next of kin was on good terms you could deal with both. That's the same with separate FLOs for Ade and Kadi, it depends on the dynamic of the family. You have to consider it in the round, appoint as many FLOs as required.

104. Collette Bell was at Ade and Kadi's house when I went up. Often it's about getting one version of the truth. Three FLOs getting different versions to different family members at different times can make it harder. In fact, having read the statements from Ade and Kadi, it seems that that is exactly what may have caused concern for them here – different people getting slightly different versions of what was a developing situation. But then sometimes that is inevitable. Family dynamics can be difficult. Sometimes multiple FLOs are needed.

105. I would say it's important for Collette Bell to be informed. If Collette had been with Sheku for a week then you might not do it. But if it was years then yes. Collette had a child to Sheku and was in a long term relationship so I would say a FLO could and should have been deployed.

#### **Visit to the family on 3 May 2015**

106. I don't know the details of what happened at Ade and Kadi's house before I attended. However, when I got there I knew it was the right thing to do. I can't exactly remember but I may have offered to go. My view is that there should be leadership shown to the family. I think it was the right thing going to see them. Whether I offered or not I don't remember.

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107. I don't remember not being able to attend the address earlier and a formal death message being passed. In my statement at 16:45pm, Graeme seems to have spoken to Nicola Shepherd about this.

108. In a nutshell the purpose of going to see the family of someone who recently died was to give them as much information as I feasibly could at that point to give them an overview of the circumstances of the death and the contact with the police.

109. I've got my statement and I can't remember anything more than what's in my statement. The key elements of the discussion is what's discussed there. We kept revisiting the same things.

110. It is important to understand that the atmosphere was a difficult one. There was probably easily 20 people there. From memory, that was the first point they had heard or the penny had dropped that Sheku had died shortly after the altercation with the police. It gives a different picture to the death message delivered and perhaps raised questions about inconsistencies for the family so I'm not sure about whether the original death message could have been clearer. Maybe Kadi or Ade had already heard about police contact through the death message, I'm not sure. The majority of people there, that was the first time they'd been made aware of that.

111. The family had a barrage of questions. The more I could tell them, the greater the number of questions. They were all asking me questions at once. Some clearly were upset and angry. That is understandable. All I could do was tell them what I knew from the call card and briefings at this early stage. There were lots of questions I could not answer. The alternative, however, was not to go and not to give any more information than the original officers had passed on. That was not the right course of action to me, or to ACC Nicholson. We had agreed that I should try and given them more information not less.

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112. In a general sense it's probably very seldom, if ever, that a senior officer would attend like I did. For a critical incident I'd suggest it was right. Bearing in mind you'd be lucky if there were 1 or 2 critical incidents in Scotland every year.

113. Visible leadership is important for a family. The bottom line is PIRC waiting until the next day is wholly inappropriate. If the FLOs were deployed and that relationship was in place then I wouldn't have gone to that house. It was because there was no plan and no relationship and a family had lost a family member. Visible leadership was for a senior officer to go and tell the family all I could tell them.


114. I spoke to somebody in the PIRC, can't remember who, most likely Keith Harrower. They asked me not to go and I said I was going to go, because they didn't have somebody in place. That was because of what I would expect as a parent if they had very recently lost a member of the family.

115. I don't think I spoke to Pat or Lesley about this. I made ACC Ruaraidh Nicholson aware of my intention to do that and he was fine with it. Ruaraidh could see the importance of being open and upfront with the family.

116. There could well have been Police Scotland FLOs available but as explained earlier, I understood why PIRC did not think that was a good idea. If you put one in place and you change it on day 2 or 3, that takes a detrimental effect in the investigation. I didn't go as a FLO, I went as a divisional commander to speak to the family about someone who had died after contact with the police. That was outside the public domain and it doesn't happen very often. I can't think of another example when that happened.

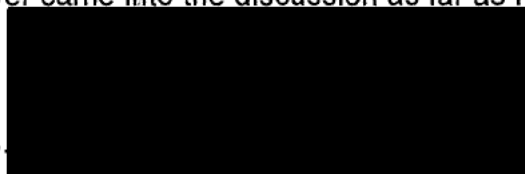
117. In my view, just because PIRC weren't telling the family anything because they had no FLOs in place, that's not a reason not to go. I don't know when the FLOs did get deployed but the family needed to know the detail at a high level.

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118. The FLO goes into a lot more detail than I would as a divisional commander. They go into antecedent detail, background history and to learn about Sheku. They would also identify any welfare needs and make efforts to put them in place. My purpose was just to tell them about the circumstances as I understood them. The FLO is a far more detailed role than what I would be doing. I was the most senior officer in Fife and it was my view that I should go and see the family. I considered it a difficult yet important thing to do.
119. I don't think there was a problem with me attending on 3 May and a FLO appointed on the 4<sup>th</sup>. The FLO undertake a different role as explained earlier
120. You try to avoid a handover of FLOs but it does happen. Sometimes the FLOs did not work out and you might need a different FLO. Best practice is to keep the FLO and avoid changing them.
121. I was at the Gold meetings so I had been given an update there. I'd spoken to Stevie Kay the PIO. I also accessed the call card so I updated myself on the basics as the day went on. I never asked the officers in the canteen what happened.
122. I wouldn't go into detail with the family about what the police are doing. I am asked what happened. It's what's in my statement, it's sharing the circumstances I knew at that time, how Sheku died, and then allowing them to ask me some questions. I genuinely didn't know much detail but it was more than they had been told before. I was clear what my purpose was.
123. I don't specifically remember speaking about the post mortem examination. I wouldn't know when the PM was planned for and if asked would have told the family that. That's the way the conversation would go. I don't remember anything about Mr Bayoh's religious or cultural practices. I have been told he was Muslim, that never came into the discussion as far as I can remember.

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124. I have now seen the statements from one or two of the family about how they now feel about my visit on the 3<sup>rd</sup> May 2015, and indeed my ongoing efforts to remain in contact with them afterwards. Those sadden me because I genuinely sought to do what both I and the ACC considered to be the right thing to do. I was respecting the family by trying to give detail that others - mainly PIRC - had failed to give.

125. I have no desire to add to the hurt of the family by getting into a dispute about what was said or how it was said by me. I tried my best to answer their questions based on what knowledge I had. I do not agree with the recollection some have of the detail of that meeting. I recollect it differently and did not leave the house under the impression that I personally was the object of any frustration or anger, as opposed to the wider concern about the Police. That said, I appreciate that for a grieving family in an emotionally charged situation, some of the facts were hard to accept. It was, I am sure, a shock to learn that Sheku had been seen with a large knife. No family wants to hear that. The alternative, however, was leaving the family in ignorance and that was, in my view, worse.

126. I am asked about whether I used the word 'machete' in describing the large knife that Sheku had been carrying. I didn't say anything about possession of machete as I recall. I think a large knife was on the call card. That's where I took the key points. A machete is, in any event, a large knife. The family did focus on the knife asking me to indicate the size, what the handle looked like and so on. I was questioned many many times about the knife from Ade and other members of the wider family. They couldn't believe or accept that calls had come into the police which may have suggested Sheku or a male fitting his description was carrying a knife. During that I may have used other phrases to describe the large knife but can't recall over 7 and a half years on whether that ever included 'machete', 'large blade', 'kitchen knife' or something

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different. All I can say was my prebrief was large knife as that was the information I had at that point.

127. I think the question of an attack on a female police officer came up. I'm not certain in my recollection about that because there were a lot of questions being thrown at me at the same time by a room of relatives who were upset and there were a number I simply couldn't answer. One question was, I think, about the police officers being injured. I said one officer had went to the hospital. I did caveat the information I was giving by explaining that these were the facts as I understood them. The information I had available was what I told them.

128. I went back after that and I briefed Ruaraidh and I think one of the two Keiths were there, Hardie or Harrower. I made them aware of how the conversation went. I said somebody should go up there. The family were now aware that PIRC were leading and I said that someone should visit them.

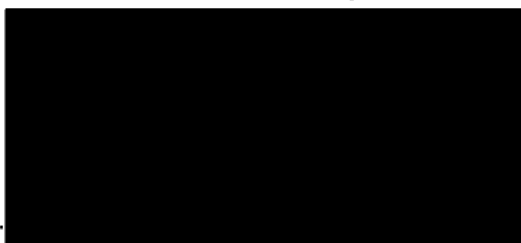
#### **Visit to the family on 4 May 2015**

129. I went to visit the family again on 4 May 2015. Their FLO still hadn't been deployed by that time. The feedback, I can't remember from who, was that the family had been on the phone quite a bit and were really pretty upset that they weren't getting any information from PIRC.

130. The key elements of that visit are in my statement.

131. Both visits were highly charged and emotional from the family as you'd expect. They were all talking over each other and asking particular questions. It was an opportunity for me to reiterate what's in my statement and try and show empathy.

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132. There were some things I was keen to assist with. They wanted to lay flowers at Hayfield Road, for example. It should be a straightforward thing but to do and they were looking for the PIRC to support them. There was a bit of media interest and they wanted to have privacy. I remember Collette was saying she didn't have powdered milk because it was in the flat. I said we'd make arrangements and get that done. It was small things like that that were relatively easy for me to make happen and we were trying to sort for them.

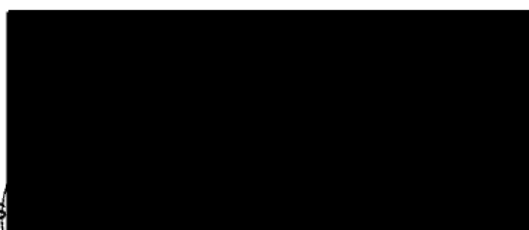
133. I can't remember if I told PIRC I was going to visit on the 4<sup>th</sup>. From memory there wasn't many PIRC staff on duty. Bearing in mind it was the day after I was a bit surprised. If no one was there I would've just done it. I again told them what happened at the meeting with the family.

134. I am asked about ongoing contact with Ade. I certainly had a few conversations with Ade after that. I can't remember but I probably did go back to the house but I can't say for sure. There were practical things I did. For example, there were family members from all across the world who didn't have accommodation. I made sure we would pay for them to stay in hotels locally when family came across from overseas. It was that kind of help which I was keen to provide.

135. I read in the inquiry statement that Ade now views my ongoing contact and concern at that time as some cynical exercise on my part. Again, I can only say that I am saddened by that. I tried to do all that I could to involve the family and build a relationship which might be of use to them at a difficult time. I did it in good faith and in recognition of a devastatingly painful loss for the family and an incident which impacted on the local community.

#### **Changing role in Police Scotland**

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136. A few weeks prior to the events of 3<sup>rd</sup> May CC Steve House had asked me to take on a National Policing role . Monday 4 May was actually meant to be the first day in my new job. It was my last day of being Fife policing commander that this incident happened. I spoke to Steve House on Sunday evening and I asked if I could stay in my current role to see the incident to a closure. I stayed on in this role for 6 more weeks and did both jobs simultaneously for a period.

137. Ade knew this, not on the 3<sup>rd</sup> or 4<sup>th</sup> but as the weeks went on I told him I was moving to the national job. There were texts and stuff. He was always complimentary of the work I did . I was grateful for that. That might've changed now - and from his recent statement his assessment of our relationship appears very different - but in the early stages it was a trusting relationship.

#### **Outcome of relationship with the family**

138. At the early stages, the family were not impressed with the PIRC deployment of FLOs, their manner and approach. I fed that back into PIRC at the time. I don't know how it went on thereafter and how long the FLOs stayed. I don't know what the longevity of that was to be honest.

139. I have been asked if my actions undermined the PIRC's liaison with the family. No, I would absolutely hope not. I explained to the family that I wasn't their FLO and that they (the PIRC) were deploying. Nobody, family or PIRC, ever said to me that I was inhibiting their relationship. I don't believe that was an issue.

140. With hindsight, if I'd been made aware earlier on the Sunday that no-one had visited the family other than the short death message I would've went up earlier. When I got there, there were 20-odd people in the living room and they had no idea what happened and they have no idea what's happening next. I wouldn't want that. To suggest leaving it for another 24 hours, as PIRC did, was inappropriate. I had to make a decision. I resolved I was going to tell them. I could've left it and thought it's a PIRC investigation and I'll leave it to them

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regardless of the harm that approach might do. That was not a responsible thing to do in my opinion. The ACC agreed.

### **Searches of property**

141. I had no involvement in deciding loci or which properties to search. I didn't have any updates that I remember. Maybe in Gold meetings but not that I can remember.

142. To me, seizing the vest equipment wouldn't surprise me. My mindset in these situations is to take more than you need and then at least you've captured what you need and can release it back. The forensic capture and importance of evidence can be maintained. I'm not surprised if things like that, weapon and house searches took place. That's belt and braces for police.

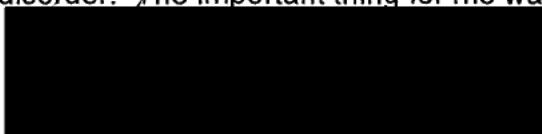
143. I had no involvement in the search of Collette Bell's address, even from a community point of view. That's from an investigation point of view. I had no idea about it.

### **Media engagement**

144. In the very early stages, Police Scotland was in charge of media engagement. The minute that the PIRC had ownership and accountability the media engagement fell to them, unless in my view if there's a community reassurance element. The reality was, and it is credit to the relationship between the police and the public in Fife, there wasn't any discernible community unrest.

145. In the following days there was a quote from me in the media. Frae Fife, a minority voluntary group, came out in support of my work and the policing style that we have in Fife. At times you worry about the things that happen in London, Manchester and America, where community unrest which can sadly lead to violence and disorder. The important thing for me was communication

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with the communities and community groups early. There's no point in me putting out masses of community reassurance messaging unless there is actual community unrest. If you do that then people might be thinking they should be more agitated than they actually are.

146. From memory I don't think there was much media required thereafter. I don't think there was a mass of Police Scotland media messaging. There were issues around Mr Anwar and the Police Federation. But from memory there wasn't a huge amount.

147. I am asked about a protest. I wouldn't say it was a protest but I certainly remember the march outside the police station. I think Ade and his family organised the march, from memory. I'm aware the family and other family friends attended. It was people across Scotland not just Fife who wanted to march. I can't remember if that was the Justice for Sheku march. The family were clear with us, how and where they indeed to march. . We facilitated police officers so no individuals were trying to interfere with the march and doing things like making sure traffic measures were in place. It was peaceful. The media were there taking photographs. It was absolutely fine, done with no issues at all.

148. There wasn't a clear terms of reference for the march. They were marching to raise awareness of how Sheku died. The banner was 'Justice for Sheku' or something along those lines. It was important as part of the ongoing community impact assessment. In certain circumstances that could lead to community unrest. I think it's because of the policing style in Fife which was different from other areas. We were very aware that this could lead to heightened tensions but it never escalated. It passed peacefully and gracefully. The family got the media coverage they were hoping to get. There was no disorder.

149. I am asked about media briefings. Most likely I'd have sight of information for briefings to media. If it was media about the investigation then that would be

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PIRC. Lesley Boal who would have oversight of that. Media messaging around the community reassurance piece for Fife would be seen and approved by me. Ruairaidh would have ultimate oversight of all media packs. That's the purpose of the Gold group meetings. What would tend to happen would be corporate comms would be at the Gold group and they'd be feeding what they recommend we do or do not say.

150. I don't recall the news report of a female officer being stabbed.

151. Any communication I have with external media goes through the media department. I've given many radio interviews over time. For example, if there's a significant drugs haul, 10kg of heroin off the streets, a written media would go out with Fife division saying great result, drugs off the street. Forth FM might say they want a talking head with a bit of voiceover for the news. The media department would come to me. Everything is done through the media department.

152. For things like comments to the Courier, you'd have to ask the media people, they would put it out to everybody. It just depends on the outlets, who wants to print it. It's of interest to the Courier, it's the biggest newspaper in Fife and central Scotland. The Sun might run it in page 19 but the Courier - because it's relevant to their readership - might put it on page 1.

153. On the Monday when I went to see the family again, they weren't happy that we'd put out a media statement of condolences to the family. I had already offered condolences to the family before the statement went out.

154. The purpose of the media release was part of the community reassurance. I'd told the 20-odd members of the family in person how genuinely sorry I was for their loss. I still think it's important that we communicate those condolences widely. There is a public interest in the police expressing those condolences.

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It's the people on the streets who saw the person unconscious, or driven past in the car, it's important for them to see the police are sympathetic and sorry that a man has died.

155. I am asked about letting the police officers see the statements. I wouldn't run anything past them. It's not unusual if a specific incident has occurred with a personal impact on that officer. Then you might show them. One example was a police officer who was badly injured by a criminal, knocked unconscious, he wasn't in custody and we're appealing for witnesses. I talked through the media strategy with that officer. I wouldn't let her read it and let her say if she wanted changes.

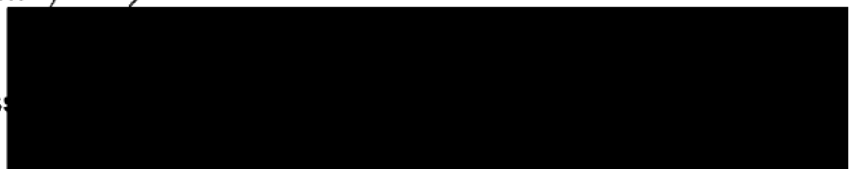
156. In terms of updating the officers of the media releases, if the officer is in the thick of things you might choose to give them a heads up. If you're looking for more information as the weeks and months go by you might want to give an indication. The Federation may or may not have been getting sight of some of them. To my memory I didn't put anything else out but for the condolences. Or if I did it was very limited. I don't know if the investigation did or not.

157. I am asked whether I would have involved the Federation. Not really. The Federation aren't involved in the sense that I ask their permission. A good example would be the restructuring of a division. Part of that would be putting jobs at risk. Police staff and officers might have their jobs at risk. I would've done media releases to be pro-active about positive changes. The Federation and other unions, I would give them sight of that in advance to keep everybody joined up and informed. There are times I would contact Federation to give them an advance copy. That is the extent of their involvement. I didn't give the condolences media release to them.

158. I have been shown two emails (PS04984) with the following terms:-

*From: William.Little...*

Signature of witness



*Sent: 14 May 2015 07:55*

*To: Hardie, Keith; Wilson 2, Stuart*

*...*

*Subject: Family Press Conference*

*Importance: High*

*Morning Keith/Stuart,*

*The PIRC was made aware of this late yesterday afternoon, John McSparran spoke to Mr Anwar late last night and it would appear that the thrust of this conference will be to criticise the police officers decision not to provide statements regarding their involvement.*

*...*

*From: Garry McEwan*

*Sent: 14 May 2015 08:08*

*To: Lucy Adamson; DCC Local Policing; Andy Edmonston*

*Subject: Fw: Family Press Conference*

*Importance: High*

*Lucy, please see below. I think we need to be in a position to respond to this. I think the best avenue is most likely Federation. We need to be quick with this. Will you link in with Exec and Feds around this?*

*Garry*

*Allistair, please ensure all is sighted on this development.*

159. Mr Anwar was going to appear on the TV and criticise the police officers. It was important that somebody is in place to respond to that. The Federation is the staff association and may choose to respond. For the welfare of our police

Signature of witness....



officers somebody needs to be able to give a formal response to what Mr Anwar was going to say. The reason I'm referencing the Federation in advance is that the Federation are the ones who are giving advice to police officers. The Federation may have gone public around that time about why the police officers were involved and were doing or not doing certain things.

160. To be clear, I personally didn't respond to this. "We" is the collective we and I am noting that somebody should be in a position to respond to what Mr Anwar is going to say. It's as basic as that. Mr Anwar can say what he wants to say and I am simply noting that the Federation might want to respond.

**Gold group meeting 3 May 2015 at 11:30am**

161. I have read the Gold group meeting minutes for 3 May 2015 at 11:30am (PS06491).

162. I am asked about the terms of reference for the strategy. I pulled the terms together. I based them on previous incidents and experience. It was pretty much from what's in my head. I'm not sure if in the critical incident guidance there's some high level terms. It would've been a bit of an amalgamation. The ones there are pretty general.

163. The purpose is to ensure that we have a focus and understanding of what it is we're trying to keep in the forefront of our minds. It's easy in these meetings to go off on tangents. If we achieve these things then we can ensure we're doing what we're supposed to be doing in incidents such as this.

164. I have been asked what it means to ensure the integrity, interest and reputation of Police Scotland. That's a standard term. For me, this ensuring integrity of following proper procedures, guidelines, working within the parameters of the law and not doing anything illegal or unethical. Reputation is fundamental to

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policing by consent, so if the public do not trust and have confidence in policing then by default we can't police by consent. The public do what we ask 99.9% of the time because they trust us to do our job. That can be eroded if our reputation is affected. We would then be policing by force which we want to avoid. The integrity and reputation is about ensuring we don't need to do that. The staff being maintained and safeguarded is to ensure that we remain an employer of choice for our staff.

165. Examples in this case ties into what I stated about my initial actions. Despite PIRC having oversight of the investigation, the fact they didn't have the capacity or will to speak to the family meant that the organisation who would be criticised for this would be Police Scotland not the PIRC. The family and papers wouldn't say it was PIRC who was responsible, it would be the police service. It's one of the reasons I went to see the family from a Police Scotland leadership point of view. It's also about media responses being balanced and not one sided. Police should be balanced and informed in what they're saying publicly.

166. The bullet points of the terms of reference are in a hierarchical order. Number 1 is response, 2 is reassurance, 3 is reassurance to the community, 4 is to return community to normal. 5 is, where we can, maintain the reputation of the police service. I can't remember what Mr Anwar said at that press conference but if he had said something unfounded then I think we should be in a position to safeguard the staff and the organisation. If we didn't then nobody would want to be in the organisation. The level of importance is top to bottom, but they're all important.

167. An effective professional response to the incident means lifting every stone and you're uncovering what you're wanting to uncover. Anything you uncover that leads to obvious criminality then you take the right course of action. You're not brushing anything under the carpet and that's the point of the professional response. If the police have done something wrong then they have done

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something wrong. There needs to be accountability. But where you can, you have to preserve the integrity and reputation of the force.

168. I am asked about the house searches. There was no discussion about the loci and the legal basis for securing the properties. But at that time the full circumstances were not known. It's the police who are adopting a bit of a belt and braces approach. If you start low you can't scale up because you've missed forensic opportunities. The key is to scale up and as the circumstances become clear you can scale down. That's best practice. I get that people can be decanted from houses for hours or days but better than to ensure we get all the evidence rather than miss stuff and you never get it back.

169. I don't remember the discussion about the issues with the family at section 5 on page 2. I suspect it's back to what I said that I could've done it earlier. PIRC aren't in a position to deploy FLOs but they were resistant to deploying MIT FLOs. By default it was me that was deployed.

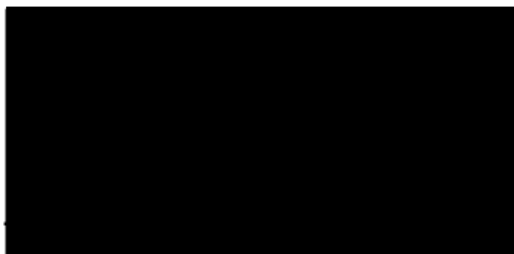
#### **Gold group meeting 3 May 2015 at 14:40**

170. I have read the Gold group meeting minutes for 3 May 2015 at 14:40 (PS07268).

171. I don't remember who kept the minutes. I thought her name was Paula Warrender. I think she was a Sergeant, maybe an Inspector now.

172. I have been told in PS Warrender's handwritten note of the meeting (PS06514 at pages 1 and 2) she has written the following: "*Factual update DI Robson... Male – went for female. On ground kicked to head... - during struggle he lost control of knife*".

Signature of witness.



173. I don't remember this being said. At that time at 2pm in the afternoon it wouldn't have had an impact either way. The fact that he was in possession or not in possession I was genuinely unsighted on that. That hadn't become clear in my mind at that point. The kick to head I don't remember, maybe more that she was assaulted. I thought it was a stamp more than a kick. I'm struggling to remember.

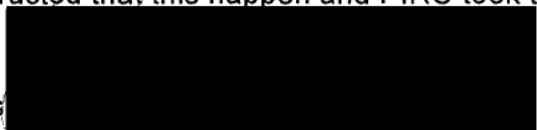
**Gold group meeting on 4 May 2015**

174. I have been shown the minutes for the Gold group meeting at 12:30pm on 4 May 2015 (PS03161) at page 1: "*Family seem to have disengaged with Police.*" Page 2: "*Family seem to have disengaged with Police – decision made for C/Supt McEwan and Supt Milton to visit and re-engage.*"

175. I was in attendance. It doesn't change my recollection. That ties in with what I said in my statement that I came into duty on the Monday and there's a flurry of other business I have oversight as well as this which is ongoing. I'm at the Gold meeting and I get the briefing that the family have disengaged. The police have tried to engage with the family and they have shut the door. Dougie Milton and I decided to go back up. We left the meeting in as good terms as we could. We left on pretty good terms. When I went back up we had a pretty good conversation and the important part was to sort those things to continue that trusting relationship.

176. From my statement I think it was concerns because there was no disengagement with PIRC and they want to know more information. They wanted an opportunity to lay flowers. PIRC were saying they didn't have capacity but that was a simple thing that we wanted to happen and they wanted detail about the house. For me this is a bereaved family and they were wanting to sort some things. For me these are simple things that we, between police and the PIRC, should be facilitating with the family. I went to the Gold meeting and pretty much instructed that this happen and PIRC took that on board.

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177. I don't think PIRC were agreeable. They didn't have control of it, it wasn't a priority for them. The level of resource they had were all consumed in other areas. They missed the point. This could end up in a position when communities were against the police and PIRC because they wouldn't do simple things to make life easier for the family. They never had that focus.


178. I have been shown the minutes for the Gold group meeting at 12:30pm on 4 May 2015 (PS03161) at page 2: "*TASK – Advice to be gained from PIRC regarding the disclosure of the PM results to the Officers involved in the incident. Supervisor to be identified to carry this disclosure out*"

179. I don't remember this. I don't think there were concerns about the PM. I'm not part of the investigation team but unless there was any apparent foul play coming to light then I don't see a reason they shouldn't be told. I haven't got sight of the investigation at that point. For me the important thing would be telling the family the post mortem.

180. I have been shown the minutes for the Gold group meeting at 12:30pm on 4 May 2015 (PS03161) at page 2: "*TASK – Media (Lucy Adamson) to be made aware of the PM results*".

181. I wasn't in charge of the investigation but I personally wouldn't be disclosing to the media the terms of the post mortem. The media is not really my area, it's for the media manager. The media would report directly to the Gold commander because you have media of the investigation and the community reassurance. I was dealing with media within the confines of community reassurance.

182. I am asked about the handover to PIRC. The earlier the handover the better. My concerns were more about the capacity and arguably the competency of the PIRC in dealing with an investigation of this magnitude. PIRC were a small

Signature of witness. 

and immature organisation. This was a very serious investigation and I don't know if the PIRC had maturity to handle it. The proof is in the outcome but that was just my interpretation on the day. I don't think I voiced it, not in the Gold group. That was just my feeling from being an investigator for many years.

### **5 May 2015**


183. I have been shown the PIM log at pages 17 and 18: "*Tuesday 5 May... Spoke with Jane Combe (am/pm) She updated me that cause of death was advised last night pending toxicology and did not result from blunt trauma. Officers had been told last night.*"

184. I can't remember if they were told. It wouldn't surprise me. I can't see why we wouldn't disclose it. The police officers are absolutely devastated, what would you lose by telling them that.

185. I have been asked if there was a concern that the officers' account could change following them being made aware of the cause of death. They'd be terrified they had done something that caused the death. Officer welfare is a factor. They are witnesses, there's nothing to suggest that they are anything but police officers so I don't know why you wouldn't disclose the cause of death. Unless there's a clear investigatory view on it I would declare that to them. It's a pretty basic cause of death that's been disclosed so we're not giving them too much detail. I think if it was blunt force trauma then you might not tell that to the officers, but if it wasn't blunt force trauma then what's the harm in telling them.

### **6 May 2015**

186. I have been referred to the Gold meeting minutes on 1100 on 6 May 2015 at Kirkcaldy Police Station (PS09779): "*Factual update... Door to door has confirmed that deceased was engaged in a fight at Arran Crescent and*

Signature of witness 

*numerous witness are speaking to him being in possession of a knife, one witness suggests deceased stated – “KNIFE IS BLUNT”*

187. I don't remember that. To me it's not relevant. Doesn't matter if the knife is blunt or not.

188. I have been referred to the minutes: *“Question raised regarding contact with Connie **Barcik** – confirmed PIRC have been made aware regarding the need for contact however no update to confirm this has taken place.”*

189. I don't remember her. I have a vague recollection I knew about the ex-partner. It's common to have an ex-partner with kids. I don't recollect it. For ex-partners, there's no one size with this, it's really down to the police officer's judgment. You get a family history. Connie might come up in the conversation and you'd see if they were in close relationship. You just have to work on the dialogue you're having with the immediate family. If they said Sheku was close to that person, the Police or PIRC I would hope would take the initiative and speak to her. It's hard to second guess. I don't remember being told about her.

### **Community Impact and Reassurance Group**

190. Generally, this group predates this event. In 2008 when I was the head of the CID I established an independent advisory group and it had representation from a diverse groups and communities across Fife. We tried to include all protected characteristics. We would meet every couple of months and we'd discuss everything that was current and topical, was there any community tension for groups and any advice that can be given. I'd say to the group we've got a meeting in two months, we'd look at hate crimes and we'd ask the officers who investigated the crimes to attend the group and speak about how they'd investigated. They would give a presentation about the crime, the police response and how they'd interacted with the witness.

Signature of witness.

191. We did that for a long period. What transpired from that methodology was if we had high profile unusual incidents I would reconvene certain elements of the group. One example was a transgender male who was murdered. I needed to learn who to engage with within those communities. I wanted to build relationships. So when this incident happened I reconvened the meeting. But it was case specific. If a Muslim man has died in police custody, the benefits of having someone from the LGBTQ side might not be obvious, but someone from Frae Fife or the Fife Migrants Association would be very helpful for insight and guidance. It was also to get local representation from those with local networks and knowledge. People who the police could work with in future to prevent issues escalating.

192. There were also lessons for how to deal with members of the Pakistani community. We would think 'what can we do better'? Maybe that would result in something being produced which could be put out to all officers on how to conduct themselves more appropriately or sensitively. That was years of working with communities and visiting Mosques and trying to speak to friends and colleagues who have a network with the community to help us through the more difficult times.

193. The black community was also involved. Frae Fife were described as being Fife's ethnic minority community service providers. That definitely included the black and Afro-Caribbean community. Frae Fife were one of the most prominent and active members of that group. The membership has changed now, but they were always regular attendees.

194. I am asked for an example of when we used the group with a crime involving the black community. I can't remember ever being involved in an investigation of a member of the black community being the suspect of a crime, though maybe the victim. There was stuff, training maybe, some hard to reach groups we were thinking about how to communicate better with

Signature of witness.

195. I am asked about this group in relation to the incident on 3<sup>rd</sup> May 2015. Nothing jumps out at me about the response to the incident with Sheku Bayoh. I don't think there was anything specific. If this had been another part of the country or the world, we've seen what's happened elsewhere, someone has died whether black or not, there was a fear that there would be a real community fear. This group was part of that as an early mechanism for advice and guidance to help my police officers get back and get that trust and confidence from the communities.

196. I am asked about PIRC involvement in that group. In my statement on 15 May 2015 I said the meeting was current. I did ask PIRC to attend. PIRC should've been involved in the community impact side of things. They weren't overly interested and it wasn't a priority for them.

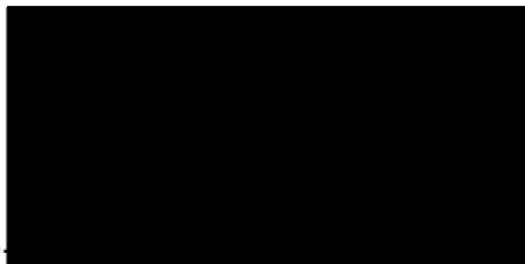
#### **End of involvement**

197. My last working day was meant to be the 3<sup>rd</sup> but the Chief asked me to stay on so I was happy to do that. That was the reason that I stayed on and then later moved away.

#### **Race**

198. Sheku Bayoh's race played no more part than what I've mentioned already. We didn't do anything differently. Because of the potential community tension and unrest that could present, we probably did more than we would normally do. But other than that I can't think we did anything different because of the race issue.

Signature of witness.



199. I am asked about racially discriminatory behaviour in the police. Yes, I have come across racially discriminatory behaviour in the police. I've chaired misconducts where a serving member of staff on Facebook put a racial image on Facebook. I'm going back maybe 5 years and somebody was jumping off a cliff with a parachute and it was a black man or woman and the police officer had said "no strings attached" or something. I chaired a misconduct and sacked him for that. I have been aware of this over the years. There's nothing that I've witnessed to my face but I've been aware of through chairing misconduct hearings around ethnicity or gender or whatever. These hearings were not in the dozens. I've terminated employments based on it.

200. Aside from the disciplinary, I wasn't aware of racist views held by police officers, or any racist jokes or comments.

201. 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.

Date 3/2 ..... Signature of witness

