

## Transcript of the Sheku Bayoh Inquiry

Tuesday, 6 February 2024

(10.00 am)

LORD BRACADALE: Good morning and welcome to this hearing in the Sheku Bayoh Inquiry.

The Inquiry has now held 75 days of hearings. In addition much material has been published on the website. As I have said before, the Inquiry's terms of reference are wide-ranging and as we move to explore the next aspect of the remit, it may be convenient to outline the programme of hearings that the Inquiry intends to follow this year.

Over the coming weeks we shall hear evidence relating to the investigation carried out by the Police Investigations and Review Commissioner, the PIRC. In April into May we shall hear evidence relating to the direction of the investigation by the Lord Advocate, together with certain other evidence. In June the Inquiry will conduct a hearing in relation to that aspect of the terms of reference relating to race. Thereafter I anticipate that all the remaining evidence should be completed by the end of the year.

So we shall now move to the chapter on the PIRC. If we could have the first witness, please.

MR KEITH HARROWER (called)

LORD BRACADALE: Good morning Mr Harrower, would you raise

## Transcript of the Sheku Bayoh Inquiry

1           your hand and say the words of the oath.

2                               MR KEITH HARROWER (sworn)

3       LORD BRACADALE: Ms Grahame.

4                               Questions from MS GRAHAME

5       MS GRAHAME: Thank you. Good morning Mr Harrower.

6       A. Good morning.

7       Q. Tell us what age you are?

8       A. I am 63.

9       Q. Your full name is Keith Harrower?

10      A. That is correct, yes.

11      Q. You worked for the Police Investigations and Review  
12      Commissioner, since February 2013?

13      A. That is correct, yes.

14      Q. We are calling them "PIRC" here. It saves me saying the  
15      full name every time I mention it. That was actually  
16      before PIRC technically came into existence, wasn't it?

17      A. Yes, it was roughly the months before we went --  
18      effectively went live.

19      Q. We have heard that PIRC came into existence on  
20      1 April 2013?

21      A. Yes.

22      Q. Is that correct?

23      A. Yes.

24      Q. And that was same date as Police Scotland came into  
25      existence?

## Transcript of the Sheku Bayoh Inquiry

- 1 A. That is correct, yes.
- 2 Q. In May 2015 you were a deputy senior investigator?
- 3 A. That is correct.
- 4 Q. Since 1 March 2018 you have been in the role of
- 5 senior investigator?
- 6 A. Yes.
- 7 Q. And that is a role you continue in today?
- 8 A. It is, for the next short while.
- 9 Q. Are you due to retire soon?
- 10 A. Mm-hmm.
- 11 Q. Very nice. We have heard that there are a number of
- 12 different investigators in PIRC, or certainly there were
- 13 in 2015. Am I right in saying that on ground level, if
- 14 I can put that way, there are investigators, and then
- 15 above that there are deputy senior investigators?
- 16 A. Yes.
- 17 Q. And then senior investigators?
- 18 A. Yes.
- 19 Q. So that's hierarchy in PIRC?
- 20 A. And then the head of investigations thereafter and then
- 21 the senior management for the organisation.
- 22 Q. So in 2015 I think there was a head of investigations
- 23 who was Irene Scullion?
- 24 A. Yes.
- 25 Q. And there is also a director of investigations,

## Transcript of the Sheku Bayoh Inquiry

- 1           a John Mitchell?
- 2           A. Director of operations.
- 3           Q. Sorry, director of operations.
- 4           A. Yes.
- 5           Q. Was he called director of investigations in 2015? Has
- 6           his title changed?
- 7           A. Not to my recollection, I am sure it's -- because it
- 8           covered the review section of the organisation as well
- 9           as the investigations, so there were two different areas
- 10          of business, plus the supporting department.
- 11          Q. We are hoping to hear from Mr Mitchell later in the
- 12          hearing so he can perhaps --
- 13          A. Confirm it.
- 14          Q. -- confirm that. So the director, Mr Mitchell, at the
- 15          head of investigations, then Irene Scullion called the
- 16          head of investigations, and then senior investigators,
- 17          there was a Rick or Ricky Casey and John McSporran?
- 18          A. That is correct.
- 19          Q. Deputy senior investigators, yourself, Keith Harrower,
- 20          Billy Little, Brian Dodd, Ian Macintyre and a couple of
- 21          others?
- 22          A. Yes, I think there was another senior investigator there
- 23          at the time as well, Mr Nutter.
- 24          Q. And then investigators --
- 25          A. Yes.

## Transcript of the Sheku Bayoh Inquiry

1 Q. -- under there. Thank you. Prior to working for PIRC  
2 you had been in Strathclyde Police since 1979?

3 A. Yes.

4 Q. After four years you joined the CID and moved to the  
5 Serious Crime Squad?

6 A. Yes.

7 Q. You moved through the ranks during your career in the  
8 police and for the last ten years of service you worked  
9 in intelligence?

10 A. That is correct.

11 Q. And you retired after about 30 years --

12 A. Yes.

13 Q. -- in the police. That was in 2009 and at that time  
14 your rank was Temporary Detective Superintendent?

15 A. Yes.

16 Q. And then you had a period between leaving the police,  
17 before joining PIRC, of roughly around four years when  
18 you did a variety of things?

19 A. Yes.

20 Q. Have you watched any evidence in the Inquiry on  
21 television or streamed?

22 A. Yes.

23 Q. You have. You will know there is a blue folder in front  
24 of you, and if you want to have a look at that you will  
25 see that there are hard copies of things like statements

## Transcript of the Sheku Bayoh Inquiry

1           and documents. You can use that at any time. If there  
2           is anything in there you think might assist you, please  
3           feel free to look through it. As I go through documents  
4           I will put some of them -- I will ask for some of them  
5           to be put on the screen in front of you, but some people  
6           prefer hard copies so you will have some hard copies  
7           available.

8           If there is anything you would like to refer me to  
9           to help me understand your evidence today, please let me  
10          know. If we don't have it in the blue folder we will  
11          try and get it at the next break and we will have it  
12          available at that stage.

13         A. Okay, thank you.

14         Q. Can we look first of all at a PIRC statement which is  
15          dated 6 August 2015. It's PIRC 00007. You may  
16          recognise this, it has your name at the top, and it was  
17          a statement taken on 6 August 2015. But I think in your  
18          first Inquiry statement, which we will come to in  
19          a moment, that you actually began preparing this  
20          statement yourself on 4 May 2015?

21         A. That is correct, it was updated at different stages as  
22          we progressed.

23         Q. So you added to this --

24         A. Yes.

25         Q. -- as things developed and things happened. I think in

## Transcript of the Sheku Bayoh Inquiry

- 1           your first Inquiry statement you say that this was  
2           completed on 5 August 2015?
- 3       A. Yes.
- 4       Q. So it was prepared during that period May to August. In  
5           completing this statement, you had access to your  
6           notebook from PIRC and your operational notes relating  
7           to the death of Mr Bayoh?
- 8       A. Yes.
- 9       Q. And your own recollection of what had happened or what  
10          was going on?
- 11      A. Yes, and also there was a briefing document I prepared  
12          as well which I had access to.
- 13      Q. And these were all the things that you had at your  
14          disposal when you prepared this first statement?
- 15      A. Yes.
- 16      Q. Thank you. Then can we look at PIRC 00008. Again, this  
17          is a statement by you, your name is at the top,  
18          Deputy Senior Investigator. And if we can just move  
19          down the page slightly. You see it is self-dictated  
20          which means you wrote this yourself; is that correct?
- 21      A. Yes.
- 22      Q. And it relates to events between 12 and  
23          14 August 2015 --
- 24      A. Yes.
- 25      Q. -- primarily regarding your involvement with meeting

## Transcript of the Sheku Bayoh Inquiry

1 a Dr Jason Payne-James, who was an expert, and also  
2 handing over an expert witness package to a Nat Carey,  
3 who we have actually heard evidence from in the hearing.

4 A. Yes.

5 Q. Then if we can move on to a third statement, PIRC 00009.  
6 This is dated 27 May 2016. Again, self-typed by you in  
7 Hamilton and if we can move down the page, please, you  
8 see that you are talking about events on 2 June 2015.  
9 You talk about taking a statement from  
10 Detective Constable Andrew Mitchell --

11 A. Correct.

12 Q. -- who we have also heard from. And later in your  
13 statement you talk about noting a statement from  
14 a PC Brian Geddes, who we have also heard evidence from  
15 in the Inquiry.

16 A. Yes.

17 Q. You also talk about taking other statements, including  
18 one from a PC Ross Crawford, a national training  
19 officer, and taking possession of the OST manual?

20 A. Yes.

21 Q. So these are things that you were involved in as part of  
22 the PIRC investigation?

23 A. That is correct.

24 Q. Now, in your second Inquiry statement, which I will come  
25 to shortly, you tell us at paragraph 225 that the



## Transcript of the Sheku Bayoh Inquiry

1 content of these three statements that we have just  
2 looked at were true and accurate and to the best of your  
3 knowledge.

4 A. That is correct.

5 Q. And your recollection of events at the time you wrote  
6 these statements was better than it is now, so if there  
7 is any issue with differences between your Inquiry  
8 statements and these PIRC statements, the Chair should  
9 prefer the PIRC statements?

10 A. Yes.

11 Q. Thank you. Let's look at your first Inquiry statement,  
12 please: is SBPI00259. You will see that this is the  
13 first Inquiry statement dated -- taken on  
14 28 October 2022 and I believe it is about 30 pages long.  
15 You have signed every page of this statement. If we  
16 look at the last page, we will see that it was signed on  
17 6 February 2023. There we are. On the screen version  
18 your signature has been redacted, but I think on the  
19 version you have in hard copy you may recall you have  
20 signed all the pages?

21 A. Yes.

22 Q. The last paragraph in this statement is 66. I will just  
23 read that out:

24 "I believe the facts stated in this witness  
25 statement are true. I understand that this statement

## Transcript of the Sheku Bayoh Inquiry

1           may form part of the evidence before the Inquiry and be  
2           published on the Inquiry's website."

3           A. Yes.

4           Q. When you signed the statement you understood that that  
5           was the case?

6           A. Yes.

7           Q. In this first Inquiry statement at paragraph 3 you  
8           specifically see that you refer to your previous  
9           statements. Can you go down the page, please.

10          Thank you:

11                 "... if there was any discrepancy between this  
12                 statement~..."

13                 That is your first Inquiry statement:

14                 "... and [your] PIRC statement ... the Inquiry  
15                 statement has additional information and clarity on some  
16                 matters in answer to specific points and questions."

17           A. Yes.

18           Q. Am I correct in saying that if there is something not  
19           mentioned in the PIRC statements, that is mentioned in  
20           your Inquiry statements, the Chair should look at the  
21           Inquiry statements and prefer that?

22           A. Yes, there was obviously significant additional  
23           questions in relation to certain matters, so that was  
24           expanded upon within the Inquiry statement, the  
25           subsequent statement on behalf of the Inquiry

## Transcript of the Sheku Bayoh Inquiry

1 I submitted.

2 Q. Thank you. You said a moment ago you began with PIRC  
3 in February 2013. They officially came into existence  
4 on 1 April 2013. Can you tell us in that short period  
5 between you starting and PIRC coming into existence  
6 officially what was your role at that time?

7 A. I was a first-line manager as  
8 a deputy senior investigator along with a number of  
9 other deputy senior investigators and investigators. We  
10 had to, within a short period of time, try and create  
11 processes to -- aiming towards 1 April when we would  
12 obviously go live and have to respond to any immediate  
13 serious incidents. So it was a matter of preparing for  
14 that, a variety of things, even administrative stuff and  
15 getting our then office in Paisley up to scratch, to be  
16 able to work effectively from that location.

17 Q. We have heard -- there is evidence available to the  
18 Chair in statements, I should say, that your office was  
19 in Hamilton. Initially was it in Paisley and did it  
20 move to Hamilton?

21 A. Yes, we were only at Paisley for quite a short period of  
22 time and then we moved to basically our current  
23 location.

24 Q. I would like you to look at document please, which  
25 I understand was from November 2012. So prior to you

## Transcript of the Sheku Bayoh Inquiry

1 starting, prior to PIRC's creation but I would like to  
2 see if you recognise it. It is PIRC 04446. You will  
3 see there the date is Monday, 12 November 2012, and it  
4 is headed up:

5 "Police Investigations and Review Commissioner."

6 So PIRC:

7 "Operational model.

8 "Response to Article 2 investigations."

9 Do you recognise this document?

10 A. No, I don't. That is not to say I haven't seen it,  
11 obviously it is a long time ago but at this point  
12 I don't -- I don't recognise it.

13 Q. We may hear evidence from John Mitchell, the director,  
14 later in the hearing and he may say that this document  
15 formed quite a bit of discussion in the run-up to  
16 1 April 2013. So it was being discussed --

17 A. Yes, I wouldn't dispute that. Obviously we were, as  
18 I say, in preparation for that -- effectively that  
19 launch date and there would be a lot of dialogue at  
20 different stages and we were all given different tasks  
21 to formulate some of these process and move towards that  
22 date.

23 Q. Thank you. Let's look at page 2 of that document, and  
24 see if this refreshes your memory. You see it is headed  
25 up PIRC:

## Transcript of the Sheku Bayoh Inquiry

1           "Operational model -- response to Article 2  
2           investigations."

3           It says:

4           "This operational guidance document reflects the  
5           development of ECHR case law in respect of the  
6           implications of Article 2 along with the requirement for  
7           the independent investigation of those cases where  
8           Article 2 may be engaged."

9           Then if we look down to paragraph 5 it says:

10          "The Human Rights Act 1998 and obligation imposed  
11          under Article 2 apply equally to [Police Service of  
12          Scotland], [Crown Office and Procurator Fiscal Service]  
13          and PIRC. Where Article 2 is engaged, the  
14          Police Service have a duty to ensure that they conduct  
15          themselves in a manner that is consistent with the five  
16          procedural obligation that is the courts have held to  
17          exist."

18          Does this ring a bell for you?

19          A. Vaguely I think. But as I say that is ...

20          Q. Do you remember seeing this document before or when you  
21          arrived at PIRC, before they came into existence?

22          A. Not specifically that document but these are certainly  
23          discussions, I think, that would take place as part of  
24          that initial planning.

25          Q. Was the independence of PIRC known to you, the

## Transcript of the Sheku Bayoh Inquiry

1 importance of PIRC being independent?

2 A. Absolutely, yes. Highly important in the role that we  
3 were taking on.

4 Q. In fact was that part of the reason PIRC were set up, to  
5 be independent and conduct independent investigations?

6 A. That is the main reason, I would say.

7 Q. Then let's look at these five procedural obligations.

8 You see the bullet points there. The first is:

9 "The investigation must be independent insofar as it  
10 should have no hierarchical or institutional connection  
11 to those implicated."

12 And that is in bold?

13 A. Yes.

14 Q. Do you understand what that means?

15 A. Yes.

16 Q. Can you explain that to people listening?

17 A. Basically you can't be classed as independent if  
18 potentially your position with the Inquiry that you are  
19 conducting could be compromised or negatively affected  
20 by what you are doing through relationships or other  
21 ties with individuals.

22 So it is clear that you must be wholly independent  
23 with any investigation that you are doing, if you are  
24 not in a position to do that, then you would have to  
25 declare that and withdraw, and that was the same for

## Transcript of the Sheku Bayoh Inquiry

1 every member of staff. That is still at the forefront  
2 today of any investigation that we conduct, to ensure  
3 that that is present.

4 Q. We have heard evidence about Police Scotland being  
5 a hierarchical organisation and officers of different  
6 ranks within that organisation. Can I ask, was it  
7 important to investigators with PIRC not to be  
8 intimidated or bowed by senior officers in the  
9 Police Service?

10 A. Absolutely, and that is clearly a part of the  
11 independence as well, that couldn't be the case under  
12 any circumstances.

13 Q. Where it says "institutional connection", was that what  
14 you were saying a moment ago about --

15 A. Yes.

16 Q. -- a connection between the organisations.

17 A. Obviously, I mean some members of staff were previously  
18 affiliated, employed by what was previously the forces  
19 within the newly created Police Scotland, so again it  
20 was important to recognise that and make sure that that  
21 didn't adversely affect any investigation that we were  
22 doing.

23 Q. Then the second bullet point there is:

24 "The investigation must be effective."

25 That is also in bold. What did you understand that

## Transcript of the Sheku Bayoh Inquiry

1 to mean?

2 A. Yes, it's clear that from start to finish the  
3 investigation must be professional, it must be  
4 effective, come to sound conclusions and findings within  
5 that investigation. And using all the necessary skills  
6 of the individuals involved to ensure that that is  
7 an effective investigation.

8 Q. Then there are three further bullet points there. They  
9 are not in bold but they say:

10 "The investigation must be reasonably prompt."

11 A. Yes.

12 Q. And what did you understand that to mean?

13 A. Yes, I mean that is part of being effective, I would  
14 say, that you take on the investigation and progress  
15 that as soon as reasonably practical depending on the  
16 complexities that involved. I mean, some investigations  
17 we do do take a long time but there are sound reasons  
18 for that.

19 Q. Then it says:

20 "There must be a sufficient element of public  
21 scrutiny."

22 What did that mean?

23 A. I think a lot of investigations that we do are published  
24 into the public environment so there is a knowledge of  
25 investigations that we are conducting and we have to



## Transcript of the Sheku Bayoh Inquiry

1           promote confidence in the organisation itself, so that  
2           means the wider public will have an awareness of what we  
3           are doing, and hopefully have confidence in that.

4       Q.   And:

5                       "The next of kin must be involved to an appropriate  
6           extent."

7       A.   Yes.

8       Q.   What did you understand that to mean?

9       A.   I would think that was particularly relevant to death  
10           investigations obviously, that the family were looked  
11           after properly, were kept informed of appropriate  
12           information and were given all necessary support at the  
13           required times.

14      Q.   It goes on to say:

15                       "So far as this document is concerned it is the  
16           first two obligations that are will relevant and which  
17           must be observed by the [Police Service of Scotland] and  
18           PIRC under direction of [the Crown Office]. In those  
19           cases where Article 2 may be engaged the PIRC will seek  
20           to deploy Investigators at the earliest opportunity to  
21           enable the conduct of an independent investigation."

22                       Having looked at that, where it said in the first  
23           section that I read out that Article 2 obligations apply  
24           equally to the police, the Crown and PIRC, and they have  
25           these five procedural obligations which we have gone

## Transcript of the Sheku Bayoh Inquiry

1 through, but then says it's the first two that are  
2 relevant and must be observed by the police, PIRC and  
3 Crown Office. Can I just be clear, were all five, in  
4 your understanding, applicable to the police and PIRC  
5 and the Crown?

6 A. I would say so, yes. It certainly would be to me,  
7 leading any investigation.

8 Q. So, as an investigator with the PIRC, you would take the  
9 view that all five should be observed --

10 A. Yes.

11 Q. -- as part of your investigation? Thank you.

12 Just for completeness, can we have a look at page 4,  
13 please. This relates to, "Assistance and cooperation of  
14 police resources", and if we see the section that is  
15 highlighted in bold, paragraph 3, there is:

16 "The Regulations for Investigation require the  
17 Chief Constable and the ... (SPA) to provide such  
18 facilities, assistance and cooperation as the PIRC may  
19 request for the purpose of, or in connection with,  
20 an investigation."

21 A. Yes.

22 Q. So was it envisioned that the police would -- we have  
23 heard evidence that the police would continue to provide  
24 resources and make those resources and support available  
25 to PIRC.

## Transcript of the Sheku Bayoh Inquiry

1 A. Yes.

2 Q. Was that envisaged to be part of your investigation?

3 A. On some occasions, yes, I don't think it is always  
4 necessary but certainly the bigger, or the more complex,  
5 there may be a requirement to utilise and direct police  
6 resources at certain times for certain functions.

7 Q. So the situation is the PIRC may make a request?

8 A. Yes.

9 Q. It's not compulsory?

10 A. No, we don't necessarily have to, no.

11 Q. The final paragraph on page 4, please. So:

12 "Upon receipt of a referral it may be necessary to  
13 require cooperation from police resources to carry out  
14 tasks that the PIRC feels are reasonable and  
15 appropriate. The PIRC Investigator will confer with the  
16 appointed police senior officer at the time of initial  
17 contact and deployment where it has been necessary to  
18 deploy. During those early discussions it may be  
19 necessary to secure the use of police resources to carry  
20 out tasks required by PIRC staff. These considerations  
21 are not exhaustive and are produced to assist  
22 [Police Service] and PIRC staff, they are not meant to  
23 infer that the police will resist PIRC involvement."

24 So again, it is reinforcing that it's an option for  
25 PIRC to make a request of the police, and if PIRC makes

## Transcript of the Sheku Bayoh Inquiry

1           such a request, what were your expectations of the  
2           police?

3           A. That they would agree to do that, and I would expect  
4           that on every occasion. And it would be more important  
5           in the very early stages of a major investigation that  
6           there would be a need to -- you know, to utilise  
7           resources for certain tasks, but still under our  
8           direction.

9           Q. Let's look at page 5, please. This is headed,  
10          "Providing the direction that officers should not confer  
11          prior to recording their first account."

12                 It says:

13                 "The issue surrounding officers being allowed to  
14                 confer following an incident and in particular  
15                 a firearms incident, has been a contentious one."

16                 So there was a recognition that this had caused some  
17                 issue. I won't go through all of those paragraphs in  
18                 detail but if we can go down the page, there is  
19                 a reference to an ACPO manual, and we see  
20                 paragraph 7.94:

21                 "As a matter of general practice officers should not  
22                 confer with others before making their accounts (whether  
23                 initial or subsequent accounts). The important issue is  
24                 to individually record what their honestly held belief  
25                 of the situation was at the time force was used. There

## Transcript of the Sheku Bayoh Inquiry

1           should be no need for an officer to confer with others  
2           about what was in their mind at the time force was used.  
3           If, however, in a particular case a need to confer on  
4           other issues does arise then, in order to ensure  
5           transparency and maintain public confidence, where some  
6           discussion has taken place, officers must document the  
7           fact that conferring has taken place, highlighting ..."

8           There are four bullet points:

9           "Time, date and place where conferring took place.

10          "The issues discussed.

11          "With whom.

12          "The reasons for such discussion."

13          A. Yes.

14          Q. Again, this reflects back here to ensuring transparency  
15             and maintaining public confidence. Again, that is  
16             supporting the Article 2 requirements to ensure that  
17             your investigation complies with Article 2. Is that  
18             correct?

19          A. Yes.

20          Q. Thank you. Can we look at page 8 now, please. I am  
21             interested in the, "Additional advice for staff", which  
22             is halfway down that page. The first paragraph there:

23             "If the indications are that the guidance is not  
24             going to be complied with we should explain to officers  
25             that, in relation to the use of lethal force they should

## Transcript of the Sheku Bayoh Inquiry

1 record their honestly held belief why they used the  
2 force and we should make it clear that conferring is not  
3 necessary when recording their own belief. We must be  
4 clear that we are not seeking for officers to be  
5 separated and we understand that they are entitled to  
6 legal advice."

7 So when there is a reference there to "we", that is  
8 to PIRC, is it?

9 A. Yes.

10 Q. And when it says:

11 "... we should explain to officers that, in relation  
12 to the use of lethal force they should record their  
13 honestly held belief~..."

14 What was envisaged when it said, "We should explain  
15 to officers"?

16 A. I would expect that that is whoever is leading the  
17 investigation at that time would -- would articulate  
18 that to the officers. Now, I note it refers  
19 specifically to lethal force which I think this looks to  
20 be directing more towards the kind of firearms-type,  
21 where a firearm is discharged and someone was  
22 subsequently killed.

23 Q. All right. Let's look at page 7 because this does say  
24 at the top of page 7:

25 "PIRC investigators guidance note.

## Transcript of the Sheku Bayoh Inquiry

1                   "Referrals involving the police use of firearms."

2       A.   Yes.

3       Q.   It relates to Article 2 investigations.  We will come

4           back to this.  Thank you.

5       A.   I think this refers specifically to the kind of

6           post-incident process, which I assume you will go into

7           at a later stage.  But it is linked to that, and there

8           would be a requirement for us in that situation in

9           relation to a firearms, at that time in 2015, to follow

10          a process.

11       Q.   So your understanding of this section is that it would

12          relate to a firearms situation?

13       A.   Yes.

14       Q.   What did you understand a firearm to be, in 2015?

15       A.   What would my definition of a firearm be?

16       Q.   Well, what was your understanding?

17       A.   I would say a lethal barrelled weapon of any

18          description.

19       Q.   All right.  Thank you.  When you became involved with

20          the death of Sheku Bayoh and the investigation into that

21          by PIRC --

22       A.   Yes.

23       Q.   -- was this document something that you had regard to or

24          had in the back of your mind?

25       A.   No, I couldn't say that, not specifically, no.

## Transcript of the Sheku Bayoh Inquiry

1 Q. I would like to look at another document now. This is  
2 after PIRC came into existence in April 2013, but before  
3 the incident in May 2015. So during that period. Could  
4 we look at PIRC 04453, please. You will see this is  
5 headed:

6 "Memorandum of understanding between the Crown  
7 Office ... and ... PIRC."

8 A. Yes.

9 Q. You do recognise this document?

10 A. I would be aware of its existence, yes.

11 Q. Would you have read it at the time?

12 A. At the time probably I would expect so, yes.

13 Q. Can we have a look at page 2. You will see -- if we can  
14 go up a bit, please. Thank you. We will see that it  
15 says:

16 "PIRC statutory responsibilities."

17 I am hoping you can help us understand something in  
18 relation to the statutory responsibilities. It says  
19 there:

20 "Section 33A of the 2006 Act details the general  
21 functions of the Commissioner~..."

22 Of PIRC, and then if we look at section (b):

23 "Where directed to do so by the appropriate  
24 prosecutor -

25 "(i) to investigate any circumstances in which there



## Transcript of the Sheku Bayoh Inquiry

1           is an indication that a person serving with the police  
2           may have committed an offence."

3           That will be a criminal offence?

4       A. Criminal offence, yes.

5       Q. So that is (b)(i), if I can call it that?

6       A. Yes.

7       Q. Then let's look on to the next page, and we will see  
8           (b)(ii) and this is:

9           "to investigate, on behalf of the relevant  
10          procurator fiscal, the circumstances of any death  
11          involving a person serving with the police which that  
12          procurator fiscal is required to investigate under  
13          section 1 of the Fatal Accidents ... Act~..."

14          Now, can you explain to everyone what that  
15          distinction meant in day-to-day work for PIRC  
16          investigators?

17       A. It is two completely different referrals from the Crown  
18       Office. The first one in relation to a specific  
19       criminal allegation would come from the Criminal  
20       Allegations Against Police division of Crown Office, and  
21       in relation to any death would come from a different  
22       area of business at Crown. So there are two very  
23       different referrals requiring a different response and  
24       different legal framework in relation to the people that  
25       are involved in that.

## Transcript of the Sheku Bayoh Inquiry

1 Q. So they are both involving some sort of contact with the  
2 police, an investigation which has to be conducted by  
3 PIRC, one relates to a criminal allegation?

4 A. Yes.

5 Q. And one where there has been a death involving someone  
6 in the police but not necessarily a criminal allegation  
7 at the outset?

8 A. Yes.

9 Q. And it is a different legal framework and a different  
10 format?

11 A. Yes, it's obviously a very different approach on how you  
12 do that.

13 Q. Can you explain to people when you say there is  
14 a different approach, what the different approaches  
15 taken were?

16 A. As far as a criminal allegation, then at the early stage  
17 you may know who the allegation is against, what officer  
18 or member of police staff it is against, or you may not.  
19 So you would have to progress to establish who the  
20 allegation is against and obviously the individual  
21 officers would have their own rights as a suspect for  
22 a criminal allegation under the law. Whereas for  
23 a death investigation then unless the circumstances  
24 change significantly during the course of that, then any  
25 of the police officers or members of police staff are

## Transcript of the Sheku Bayoh Inquiry

1           likely to be witnesses, as I say, along the line, unless  
2           the evidence told us something different that we accrue  
3           during the course of the investigation.

4       Q.   So under (b) (i) there is some sort of knowledge or  
5           awareness or evidence that the police officer is  
6           immediately a suspect in allegations of criminal  
7           behaviour.

8       A.   Yes, although we may not know who that suspect is at the  
9           initial stages of it and that may be identified during  
10          the course of an investigation.

11      Q.   But some police officer perhaps unidentified at that  
12          point --

13      A.   Yes.

14      Q.   -- there is evidence that a criminal act has taken  
15          place?

16      A.   Yes.

17      Q.   So when you do identify that person they are immediately  
18          a suspect?

19      A.   Yes.

20      Q.   And (b) (ii) is a different type of investigation where  
21          it may or may not end up in criminal proceedings being  
22          taken. You are looking into the circumstances of that?

23      A.   Yes, and following distinct terms of reference from  
24          Crown in relation to what they want us to investigate.

25      Q.   Are you following distinct terms of reference from the

## Transcript of the Sheku Bayoh Inquiry

- 1 Crown for both, whether it's (b) (i) or (b) (ii) or just  
2 in (b) (ii)
- 3 A. No, mainly in (b) (ii). I would say, there may be some  
4 form of direction with (b) (i) but it would be likely  
5 that we would be told what the allegation is, then we  
6 would conduct the investigation without little or no  
7 consultation during the course of that, just depending  
8 on -- that could be different, but normally that would  
9 be the way it would work.
- 10 Q. So (b) (ii), the police officers, if they are involved,  
11 they are not suspects, they are witnesses at that stage?
- 12 A. At that stage. Unless there is something to point to  
13 a different outcome.
- 14 Q. As you conduct your investigation that position may  
15 change?
- 16 A. It could do, yes.
- 17 Q. We have heard some evidence that as the position -- if  
18 it does change, then the status of the officer may also  
19 change?
- 20 A. May change, yes.
- 21 Q. That is really a wider investigation into circumstances,  
22 not necessarily criminal, and you are relying on the  
23 terms of reference from the Crown Office?
- 24 A. Yes.
- 25 Q. Thank you.

## Transcript of the Sheku Bayoh Inquiry

1           Can we look briefly at page 4. Do we see that the  
2 memorandum of understanding then sets out, "Role of the  
3 PIRC in investigations". At section 5.2 it says:

4           "During the course of an investigation PIRC  
5 investigators will have the powers of a constable."

6       A. Yes.

7       Q. There is a statement available to the Chair which says  
8 although PIRC investigators have the same powers as  
9 a constable, those powers fly off when they are not at  
10 work; is that accurate?

11      A. Correct. And although they have the same powers  
12 effectively they don't have the same powers even when  
13 they are working in relation to members of the public.  
14 That is where there is -- the line is drawn and the  
15 distinction is.

16      Q. Right. What does -- how does that impact the action of  
17 PIRC investigators if they don't have those same powers  
18 in relation to the public, what does that mean in  
19 practical terms?

20      A. In practical terms they couldn't arrest a member of the  
21 public, they couldn't report them for a criminal act.  
22 If there were issues with members of the public during  
23 a specific investigation then that may be one of the  
24 occasions we have to seek the support of the police to  
25 deal with that aspect of it.

## Transcript of the Sheku Bayoh Inquiry

1 Q. When you say report them, you mean send a report to the  
2 Crown Office --

3 A. Yes, report to Crown in relation to a criminal  
4 allegation.

5 Q. 5.3 explains:

6 "The PIRC is independent from any policing body  
7 operating within Scotland."

8 And then at 5.5, do we see it says:

9 "PIRC investigations are intend to comply with the  
10 five principles of effective investigation outlined by  
11 ECHR [European Convention on Human Rights] namely;  
12 independence, adequacy, promptness and so far as  
13 possible public scrutiny and victim involvement."

14 Is this effectively the five principles that we  
15 talked about --

16 A. Yes.

17 Q. -- and we saw in the previous document? So the  
18 intention is that PIRC investigations will comply with  
19 those five principles?

20 A. Yes.

21 Q. Can we look at page 5, please. I am interested in  
22 paragraph 7.4. So this is during an investigation, it  
23 says:

24 "In the case of a death investigation, the police  
25 will be required to submit the initial death report by

## Transcript of the Sheku Bayoh Inquiry

1           the next working day to the Scottish Fatalities  
2           Investigation Unit of [Crown Office]. The PIRC will  
3           submit its full death report into the investigation of  
4           the death within timescales determined by COPFS in each  
5           individual case."

6           Can I ask you, we may hear evidence later of  
7           something called a sudden death report. Is that  
8           the same thing as this initial death report that we see  
9           here?

10          A. Yes.

11          Q. So if someone later says "sudden death report" or "SDR",  
12           that would be the same thing they are talking about?

13          A. Yes. That is purely, as it says there, a police  
14           function to -- they have a requirement to submit that  
15           timeously to the fatalities unit.

16          Q. Timeously means the police submit the report by the next  
17           working day?

18          A. Yes.

19          Q. And that is to a department within Crown Office?

20          A. Yes.

21          Q. Thank you. Is that normal in any death investigation?

22          A. Yes.

23          Q. Would that be your expectation as a PIRC investigator?

24          A. Yes.

25          Q. Would that normally be done?

## Transcript of the Sheku Bayoh Inquiry

- 1 A. Yes.
- 2 Q. Thank you. That is great. I would like you to look at  
3 another document for me and this is PIRC 04438. There  
4 is no date on this document but the Inquiry has been  
5 advised that it was dated 17 June 2014. So again we are  
6 still looking at a period prior to May 2015 --
- 7 A. Yes.
- 8 Q. -- in regard to the Sheku Bayoh investigation. But  
9 I wonder if you recognise this document. It says:  
10 "PIRC independent investigative processes following  
11 police use of firearms."  
12 Do you recognise this?
- 13 A. No, but again it is something I would expect to be  
14 there. As I say I don't have that recollection dating  
15 back to then but again this would be -- it's a major  
16 part of PIRC business would be a serious firearms  
17 incident, so I would expect that document to be there  
18 and with the relevant content and direction and process,  
19 etc, contained within that.
- 20 Q. Would you expect to have read this --
- 21 A. Yes.
- 22 Q. -- when it came out, and to be familiar with it?
- 23 A. Yes.
- 24 Q. We see that this has been -- this paper has been  
25 produced to take cognisance of a report by an assistant



## Transcript of the Sheku Bayoh Inquiry

1           coroner in May of that year in respect of the shooting  
2           of Mark Duggan by the Metropolitan Police, and I think  
3           this was a high profile shooting --

4           A. Yes, it was.

5           Q. -- at that time. It says:

6                     "The purpose of this document is to identify  
7           learning opportunities and give clear guidance of what  
8           it expected of the PIRC Investigation Team following  
9           such a shooting by officers of Police Scotland."

10           We have heard quite a lot of evidence about whether  
11           there were similar learning opportunities in  
12           Police Scotland where there has been high profile death  
13           and investigation down south, and whether there were  
14           learning opportunities in Scotland from those incidents.  
15           Is this something that PIRC were doing at the time,  
16           learning lessons from other high profile incidents?

17           A. I think we may have taken -- the likes of the  
18           preparation of these documents, they may have taken  
19           that. Whether they were proactively looking at a number  
20           of investigations from down south, I am unable to answer  
21           that. I don't know.

22           Q. Can we look at the "Investigative function" section. So  
23           if we can go up the page a little:

24                     "In the initial stages following the discharge of  
25           a police firearm, Police Scotland must in line with the

## Transcript of the Sheku Bayoh Inquiry

1 European Convention on Human Rights ... Article 2, take  
2 all appropriate steps to reduce any possible risks of  
3 the investigation being undermined by any  
4 deficiencies ..."

5 So again we are seeing reference here to Article 2.  
6 Was this something that was given significant priority  
7 and focus in PIRC?

8 A. Very much so, a high priority.

9 Q. It goes on to say they want to avoid deficiencies:

10 "... such as failing to secure all available  
11 evidence. Procedures adopted should be designed to  
12 demonstrate integrity of purpose in all actions and  
13 discussions between the officers involved and be able to  
14 withstand scrutiny."

15 And it says:

16 "The responsibility for securing evidence and taking  
17 appropriate action in an Article 2 investigation remains  
18 with Police Scotland until such time as the PIRC has  
19 taken over conduct of the investigation."

20 So again, this document at least envisaged the  
21 police initially taking the initial investigatory steps?

22 A. Yes, that is just outlining the practicalities of, you  
23 know, something happening, something very serious, where  
24 it is geographically and what is the realistic response,  
25 time and effort by us as an organisation. So whatever

## Transcript of the Sheku Bayoh Inquiry

1           that shortfall in the responsibility will initially lie  
2           because the police are the first responders to  
3           an incident like that.

4       Q.   So in any incident before PIRC has taken over conduct of  
5           the investigation, the police will be involved during  
6           that initial period?

7       A.   Yes.

8       Q.   Where it says, "PIRC has taken over conduct of the  
9           investigation", what did that actually mean?  When do  
10          PIRC take over conduct of the investigation?  Can you  
11          explain to us --

12      A.   I don't know about conduct, I would say responsibility  
13          for it, and as soon as any death is referred to us then  
14          I would say we have that immediate responsibility,  
15          although effectively on the ground Police Scotland are  
16          still running with certain matters, there is no way  
17          round that, that still has it happen.  But we would, you  
18          know, start communication right away with the  
19          appropriate people, and make ourselves known and direct  
20          accordingly, even from afar.

21      Q.   So when you say as soon as you are informed of the  
22          death --

23      A.   Yes.

24      Q.   -- does that mean PIRC have immediate responsibility for  
25          the investigation?

## Transcript of the Sheku Bayoh Inquiry

1           A. I would say so. That would be how I would interpret it,  
2           as soon as I make first contact with Police Scotland,  
3           representatives or other organisation.

4           Q. We have heard that there might be an initial call from  
5           the Crown to PIRC?

6           A. Yes.

7           Q. Would that -- saying, "We want you to get involved and  
8           conduct an investigation"?

9           A. Yes.

10          Q. And we have also heard there might be conversations  
11          between PIRC and the senior investigating officer or  
12          SIO?

13          A. Yes.

14          Q. At what point would you say PIRC have taken over conduct  
15          or taken immediate responsibility; would it be when they  
16          speak to the Crown or when they speak to the police?

17          A. Effectively we have been given that responsibility from  
18          Crown so that starts from then, but for us to have  
19          control over it and start directing things we obviously  
20          need to speak to the first senior officer from  
21          Police Scotland, who in this instance was the SIO. So  
22          from my perspective, as soon as I speak to him I am  
23          issuing some sort of directions once I get a briefing of  
24          what has occurred and that started from that first  
25          telephone conversation.

## Transcript of the Sheku Bayoh Inquiry

1 Q. So, taking over responsibility doesn't involve you being  
2 present at the scene or present in the office?

3 A. No, that is not necessary.

4 Q. It is that --

5 A. Obviously it's a preference, but again it is down to  
6 practicalities and moving from that initial contact on  
7 call with direction from Crown to then influencing and  
8 directing what is going on thereafter.

9 Q. That starts when you are making the call --

10 A. Yes.

11 Q. -- to the SIO?

12 A. Yes.

13 Q. And having received that call from the Crown Office?

14 A. Yes.

15 Q. Thank you. We have heard evidence about there being  
16 a formal process known as a handover. So a sort of  
17 conversation where -- or a discussion between the police  
18 and PIRC where information and an update is given to  
19 PIRC. We have heard about formal handovers. In terms  
20 of your responsibility for an investigation, to what  
21 extent does the handover provide you with the  
22 information you need or allow that investigation to  
23 commence?

24 A. I would say that description -- to me, the formal  
25 handover is when we get the investigation, so that has

## Transcript of the Sheku Bayoh Inquiry

1           already occurred. I understand how that phraseology is  
2           used because it's more a briefing -- a more detailed  
3           briefing than what we would possibly have had before,  
4           but certainly we would go over information that had  
5           already been articulated to me but maybe in more detail  
6           or there may have been additional developments during  
7           that timeframe, but that is not a formal handover of the  
8           investigative function to PIRC at that time, because  
9           that has already occurred and we have that already.

10          Q. So you have already got the responsibility --

11          A. Yes.

12          Q. -- and the control, but the formal briefing is more of  
13             an update or a --

14          A. I would say so. There may be new information within  
15             that, there may be an expansion on what we have had  
16             before. And again, it just makes common sense because,  
17             you know, to some extent we are still acting  
18             collaboratively at that time because there are other  
19             strands to the investigation that are ongoing, so we  
20             have to keep communicating and being up-to-date so that  
21             we can make the appropriate decisions on how we  
22             prioritise the investigation at that stage, what we have  
23             to do.

24          Q. From the PIRC perspective, how important is that  
25             handover from Police Scotland?

## Transcript of the Sheku Bayoh Inquiry

1 A. The formal one that you described or --

2 Q. Yes.

3 A. It is very important. All briefings are very important,  
4 particularly where there's key individuals that are  
5 leading the individual teams.

6 Q. You were lead investigator on 3 May 2015 in relation to  
7 the death of Sheku Bayoh?

8 A. Yes.

9 Q. Am I right in saying you were the first PIRC  
10 investigator to arrive in Kirkcaldy Police Office?

11 A. We arrived as a group.

12 Q. As a group?

13 A. Yes.

14 Q. How many were in your group?

15 A. Six.

16 Q. You were the one in charge?

17 A. Yes.

18 Q. I think in your second statement, SBPI00382 --  
19 I couldn't find the number for this earlier so let me  
20 just take a moment to go through this with you.  
21 So this is headed up:  
22 "Statement in response to Rule 8 request by  
23 Sheku Bayoh Public Inquiry."  
24 And it looks quite different from your first Inquiry  
25 statement but this was in response to some numbered

## Transcript of the Sheku Bayoh Inquiry

1 questions that we sent you.

2 A. Yes.

3 Q. And you then responded in writing with the assistance --

4 A. I did.

5 Q. -- of maybe your legal team or whoever. So if you don't

6 mind, I will call this your second Inquiry statement

7 because it is through the Inquiry that we obtained this.

8 A. Fine.

9 Q. It is dated 27 September 2023. If we can look at the

10 last page, please. You will see at the bottom there is

11 a block redacted, can we move up, please. And am

12 I right in saying you have signed this document?

13 A. I did.

14 Q. In the way you had signed your first statement?

15 A. Yes.

16 Q. And it was signed on 13 October 2023?

17 A. Yes.

18 Q. A similar, if not the same, paragraph appears at the

19 end:

20 "I believe the facts stated in this witness

21 statement are true. I understand that this statement

22 may form part of the evidence before the Inquiry and be

23 published on the Inquiry's website."

24 A. Yes.

25 Q. And you understood that to be the case when you signed?



## Transcript of the Sheku Bayoh Inquiry

- 1           A. I did.
- 2           Q. Can we look at paragraph 52, please. Again, you should  
3           have a hard copy of this in your blue folder. You were  
4           asked if there was an effective and successful handover  
5           of responsibility for the investigation from  
6           Police Scotland to PIRC on 3 May and you say:  
7             
8                     "I am satisfied that the handover was effective  
9           and successful."  
10             
11           I think the way the question is phrased is that  
12           effectively this handover transferred responsibility to  
13           PIRC but from what you have said you already had the  
14           responsibility --  
15           A. Yes, and --  
16           Q. -- through the contact with --  
17           A. Very much.  
18           Q. -- the Crown Office and the contact with the SIO?  
19           A. Yes.  
20           Q. So it wasn't that handover as such that gave you the  
21           authority and the responsibility for the investigation?  
22           A. Yes.  
23           Q. Thank you. You thought -- but in any event you thought  
24           handover was effective and successful?  
25           A. Yes, I mean there was significant communication with  
          Detective Superintendent Campbell at that early stage  
          and that continued throughout the day, right up to late

## Transcript of the Sheku Bayoh Inquiry

1 on the 3 May.

2 Q. We will come back to that in a moment. Can we go back  
3 to PIRC 04438, please. So this was the PIRC independent  
4 investigative processes following police use of  
5 firearms, we were looking at this document a moment ago.  
6 I wonder if we could look at more than halfway down the  
7 page, I have just been talking to you about when PIRC  
8 take over the conduct of the investigation. Can we look  
9 at the section, "Police Scotland use of firearms", and  
10 it says:

11 "Police use of a firearm can be defined as ..."

12 There are four bullet points there:

13 "Discharge of a firearm.

14 "Presentation of a firearm at a person.

15 "Discharge of a Taser.

16 "Discharge of CS gas."

17 Were you aware that discharge of CS gas could be  
18 classed as a firearm at that time?

19 A. Yes. It comes -- they come routinely to PIRC as  
20 referrals, quite a significant number of them, as do  
21 Taser discharge as well.

22 Q. We have heard evidence that from 1 April 2013 there was  
23 a legal obligation on officers, if they had discharged  
24 their CS canister of CS gas, that they had a legal  
25 obligation of completing a use of spray form which would

## Transcript of the Sheku Bayoh Inquiry

- 1           then come direct to PIRC. Is that correct?
- 2       A. Yes. I think the police did, I don't think necessarily
- 3           the individual officer, although it would be on most
- 4           occasions. But that could come from a colleague for
- 5           whatever --
- 6       Q. It could have been --
- 7       A. -- specific reason.
- 8       Q. -- from a sergeant?
- 9       A. Yes.
- 10      Q. We have also heard the evidence it could have been from
- 11         a line manager, a sergeant --
- 12      A. Invariably it's the officer themselves that would
- 13         complete that form.
- 14      Q. So when PIRC are dealing with an incident involving
- 15         discharge of CS gas, would you understand that this
- 16         document, although it says firearms, would incorporate
- 17         discharge of a CS gas canister?
- 18      A. Yes, or PAVA spray as it is probably more common now.
- 19      Q. We have heard evidence that in 2015 it was moving from
- 20         CS to PAVA; would that be your recollection?
- 21      A. Yes.
- 22      Q. So we have a statement from John Mitchell, we have not
- 23         actually heard his evidence yet, in relation to this
- 24         document, that he says he firmly believed that in terms
- 25         of post-incident management that this document was

## Transcript of the Sheku Bayoh Inquiry

1           transferable, it didn't just relate to guns, that it  
2           would also relate to discharge of sprays. Would you  
3           agree with that?

4           A. I would -- well, certainly there but I think everything  
5           you have showed me is more, I think, determined or in  
6           relation to that use of four -- discharge of a firearm,  
7           that these processes are specifically targeted towards  
8           that. I can see obviously it refers to CS and Taser  
9           within that.

10          Q. So if John Mitchell in his statement says although it  
11          related, this document, to police use of firearms, it  
12          could equally relate to an investigation into a death in  
13          police custody which did not involve firearms; was that  
14          your understanding at the time or not?

15          A. I think in practical terms the approach to a discharge  
16          of firearms which resulted in a fatality was different  
17          at that time from how a death would be dealt with.  
18          Obviously that has changed significantly over the last  
19          few years, not long after this incident occurred there  
20          was a process of change towards -- which really brought  
21          both these types of incidents together as far as how  
22          that response would be done by both ourselves and the  
23          police.

24          Q. Can we look at page 2 of this document. I will go  
25          through this quite quickly. It says:

## Transcript of the Sheku Bayoh Inquiry

1           "Initial PIRC response to an incident whereby  
2           Police Scotland discharge firearm causing serious  
3           injury/death."

4           And it says:

5           "Police Scotland will immediately notify the Crown  
6           Office and PIRC and the Crown Office will determine the  
7           mode of investigation. Police Scotland will appoint  
8           an initial investigating officer and continue to  
9           preserve the scene until PIRC is directed by Crown  
10          Office to assume primacy for the investigation including  
11          the scene and conduct an independent investigation into  
12          the circumstances of the firearms discharge or  
13          shooting."

14          The initial investigating officer, would that be the  
15          same as the SIO?

16        A. No.

17        Q. No?

18        A. No.

19        Q. Who would be the initial investigating officer?

20        A. It would be a senior officer in that geographical area  
21          that would take firm responsibility for that, but if it  
22          was a critical incident like that then an SIO would be  
23          appointed very quickly.

24        Q. Then it sets out information on the PIRC investigation.  
25          Starts with the scene and assuming overall control.

## Transcript of the Sheku Bayoh Inquiry

1           There is reference there to the impact of geographical  
2           location and the time it might take effectively for PIRC  
3           to actually get to the area from Hamilton. So we deal  
4           with that. PIRC scene manager is also dealt with. We  
5           will come back to the detail of this later, PIRC  
6           productions officer, on the next page. There is a role  
7           called a scribe. Can you tell us what that role is?

8           A. It would be just someone dedicated to taking notes to  
9           support the lead investigator. I effectively did that  
10          on the day and appointed somebody to do that on my  
11          behalf just to support the notes that I was taking, just  
12          to make sure nothing was missed.

13          Q. Again, is this designed to enhance transparency and  
14          public confidence in what is being done?

15          A. That is part of it. But it is just making sure that we  
16          can record as much relevant and important information as  
17          we can in what is a really fast flowing incident, most  
18          of these things. So there is a lot going on a lot to  
19          try and recall and note to use potentially later.

20          Q. Is that someone that assists you and supports you in  
21          your role as lead investigator?

22          A. Yes.

23          Q. And then it says:

24                 "PIRC investigation at the post-incident management  
25                 (PIM) suite."

## Transcript of the Sheku Bayoh Inquiry

1           And it says:

2           "The PIRC Senior Investigator attending at the scene  
3           will deploy a Post-Incident Management ... aware member  
4           of PIRC staff to the Police Scotland Post-Incident  
5           Management Suite."

6           What did it mean a post-incident management-aware  
7           member of PIRC staff?

8           A.   Somebody that had undergone awareness training in  
9           relation to the Police Scotland post-incident process,  
10          so we had a limited number of officers at that time that  
11          were trained in that process, formal training, as it  
12          were.   And then I never underwent that training but  
13          I had awareness of the processes as far as the roles of  
14          different people, from the post-incident manager to our  
15          own staff, as regards their role within the  
16          post-incident process.

17          Q.   Then it says:

18                 "Police Scotland has six PIM suites~..."

19                 And it gives the various locations.   And there is  
20                 one in the east, in Edinburgh.   Do you -- did you have  
21                 an awareness of the PIM suites --

22          A.   Yes.

23          Q.   -- and the availability of those as part of --

24          A.   Yes, and they were obviously spread geographically to be  
25                 within reasonable distance for an incident occurring in

## Transcript of the Sheku Bayoh Inquiry

1 any part of Scotland.

2 Q. Is this something that you had -- was it available for  
3 your use as part of an investigation or was --

4 A. The post-incident process is a police process where the  
5 PIRC investigators have specific roles to play within  
6 that. So Police Scotland would initiate the  
7 post-incident process. We should be made aware of that  
8 at a very early stage so that we can then deploy  
9 appropriate resources and seniority to the PIM suite to  
10 whatever the incident scenes we have, so that we can  
11 cover all aspects of it. And there can be occasions  
12 where there is more than one post-incident process  
13 ongoing for an incident. Certainly on a few occasions  
14 we have had two at the one time at different locations  
15 for the same incident.

16 Q. In terms of using a suite or the availability of  
17 a suite, is that under the control of Police Scotland?

18 A. Yes.

19 Q. When you say PIRC should be made aware of that?

20 A. Yes.

21 Q. How would PIRC be made aware of the use of a PIM suite?

22 A. Officially we would anticipate it would be the  
23 Professional Standards department, one of the senior  
24 officers that would give us early notice that the  
25 post-incident process was going to commence, where it



## Transcript of the Sheku Bayoh Inquiry

1           was, any other practical information as regards how many  
2           officers, members of police staff, are involved in that,  
3           was there more than one, which is very important because  
4           that can obviously cause issues and we need additional  
5           resources to cover all these aspects of it.

6           Q. When you say "early notice", can you help us understand  
7           what that means? How early is early?

8           A. Once a decision is made by a senior officer within  
9           Police Scotland that that post-incident process is going  
10          to commence, I would hope that we would be the next  
11          phone call to say: this is happening and we will keep  
12          you up-to-date, as it moves towards that formal process  
13          starting.

14          Q. In 2015 would that have been the normal procedure for  
15          you to receive a phone call from a senior officer?

16          A. At any time, yes. From -- yes, and particularly more  
17          recently, I mean these are -- now have -- for a few  
18          years have been common place now, for post-incident  
19          processes to take place. They weren't nearly as common  
20          at that time.

21          Q. We have heard evidence that in 2015 not everyone had  
22          been trained in post-incident procedures. So some  
23          officers maybe weren't as familiar with post-incident --

24          A. Yes, I agree with that.

25          Q. Do you agree with that? How common was it in 2015 for

## Transcript of the Sheku Bayoh Inquiry

- 1           PIRC to receive that phone call?
- 2           A. Not very, for a post-incident process, no.
- 3           Q. Was there that type of phone call on 3 May to you about
- 4           post-incident procedure?
- 5           A. No. I was never formally aware that a post-incident
- 6           process was considered or a decision made to commence
- 7           it.
- 8           Q. When you say you weren't formally made aware, what would
- 9           you have expected, would it have been the phone call you
- 10          have just been describing?
- 11          A. I would have expected within the conversations that
- 12          I had with the senior police officers, whether it be by
- 13          telephone or personally face-to-face at a later stage,
- 14          that I was formally made aware that that process was
- 15          occurring.
- 16          Q. When did you become aware that -- we have heard evidence
- 17          from Conrad Trickett, who was appointed, as
- 18          we understand, on -- as post-incident manager on 3 May.
- 19          When did you become aware that Conrad Trickett had been
- 20          appointed as post-incident manager?
- 21          A. Not on 3 May.
- 22          Q. Not that day?
- 23          A. No. I was made aware that he was carrying out
- 24          a function as welfare and support for the officers, no
- 25          more than that.

## Transcript of the Sheku Bayoh Inquiry

- 1 Q. Who made you aware of that?
- 2 A. I -- I think it was probably at the first -- either at  
3 the Gold Group meeting or -- the first one I attended,  
4 or prior to that.
- 5 Q. Do you remember who told you?
- 6 A. No, I'm afraid not. Unless there is reference to it in  
7 one of my statements, but I don't think so.
- 8 Q. You have described that as being told about he was  
9 performing a welfare and support for officers role?
- 10 A. Yes.
- 11 Q. Was there any mention that this was akin to  
12 post-incident manager --
- 13 A. No.
- 14 Q. -- or any mention of post-incident procedures?
- 15 A. No. As I said, I think I mentioned in my statement that  
16 the various aspects of the post-incident process, very  
17 little or none of those actually took place anyway so  
18 that kind of supports that position that, you know, as  
19 far as I was aware there was no post-incident process  
20 per se was taking place. Because there were different  
21 stages, obviously, and there would have been accounts  
22 from the officers in relation to the incident if that  
23 was the case.
- 24 Q. So in the absence of being -- of receiving that  
25 intimation that there was a post-incident procedure and

## Transcript of the Sheku Bayoh Inquiry

1 a post-incident manager in place in terms of the  
2 document that we have been looking at, did you appoint  
3 a PIM-aware investigator?

4 A. No.

5 Q. No. Then can we look at the final page, it refers to  
6 conferring again. Keep going, please. And again, there  
7 is a reference to:

8 "As a matter of general practice, Police ...  
9 Officers should not confer with each other before making  
10 their accounts (initial or otherwise). There should be  
11 no need for an officer to confer ... about what was in  
12 their mind at the time force was used."

13 So this section appears again. And then towards the  
14 bottom of that page it says, final paragraph:

15 "The Police Scotland PIM manager should have  
16 reminded the officers involved in relation to  
17 conferring. The PIRC PIM Aware Investigator should  
18 ensure that this has been done and document/record when  
19 asked of the Police Scotland PIM manager and note  
20 his/her reply."

21 But on 3 May 2015 there was no PIM-aware  
22 investigator at that time?

23 A. No.

24 Q. Then it says:

25 "Minimum deployment of PIRC personnel."

## Transcript of the Sheku Bayoh Inquiry

1       A. Sorry, I was PIM-aware. Although I had not gone on  
2       a formal course, I was aware of the processes, and if it  
3       had been you know a firearms incident, you know, these  
4       particular roles would have been filled and that part of  
5       the process would have taken place.

6       Q. So had you been aware there was post-incident procedure  
7       in place with a manager, would you have been able to  
8       fulfil this task --

9       A. Yes.

10      Q. -- of the PIRC PIM-aware investigator?

11      A. Yes, or potentially somebody else who we appointed and  
12      that may have changed~... Ricky Casey, the  
13      senior investigator, was PIM trained, and was obviously  
14      part of the on-call team that day. So that -- you know  
15      if this formal process had kicked in, then, you know, we  
16      probably would have changed the approach to that, and  
17      how we actually covered this.

18      Q. Would Mr Casey be have been able to take on the role of  
19      PIM-aware investigator?

20      A. Very much so, yes.

21      Q. Then it goes on to say:

22                 "Minimum deployment of PIRC personnel."

23                 And it is split into the scene and the PIM suite.

24                 We see at the scene it lists a senior investigating

25                 officer, a scribe, a scene manager and two production

## Transcript of the Sheku Bayoh Inquiry

1           officers. So that is five roles there listed. And then  
2           PIM suite: PIM-aware investigator, scribe, scene manager  
3           and production officer. Four there.

4           Is that something that -- in an investigation where  
5           there is a scene and a PIM suite, would you normally  
6           expect to deploy these or have these roles filled by  
7           PIRC?

8           A. Yes.

9           Q. So five at the scene and -- involved with the scene and  
10          four as part of the PIM suite?

11          A. Yes.

12          Q. Thank you. I would like to ask you some questions about  
13          another matter, again this is prior to May 2015, and  
14          an incident on 18 October 2014. So this is where PIRC  
15          were involved in investigating an incident at  
16          Victoria Hospital where CS spray was discharged and then  
17          a report was prepared by PIRC with certain  
18          recommendations after that incident. I think you were  
19          aware of this incident, weren't you?

20          A. I was aware of it, yes. I didn't -- from recollection  
21          I don't think I had any direct involvement in it, but  
22          yes, I was aware of it.

23          Q. There had been an incident in Victoria Hospital  
24          regarding the discharge of CS spray, there was a PIRC  
25          report and do you remember any of the recommendations

## Transcript of the Sheku Bayoh Inquiry

1           that were made or involved in that incident?

2           A. I'm afraid not, no, sorry.

3           Q. Can you help us understand at that time -- we may hear  
4           evidence that there were recommendations made to  
5           Police Scotland, I am interested in what powers, if any,  
6           PIRC had to enforce recommendations that were made to  
7           police or to follow up on those recommendations to  
8           ensure that they had been carried out?

9           A. A report, a Police Scotland referred report is completed  
10          and goes through the management process, the  
11          recommendations and findings are reported back to either  
12          Police Scotland or any other agency. We retain a record  
13          of the recommendations and we monitor the responses to  
14          these and we give them a set period of time to respond.  
15          If we don't get a response then we follow that up, and  
16          I would say I am not aware of any occasions where  
17          something hasn't been implemented in relation to the  
18          recommendations, but that -- my knowledge on this  
19          specific one, as I say, is very limited.

20          Q. We may hear evidence about this later, the response was  
21          later than perhaps was expected. Can I turn to  
22          something else now and ask you about your experience  
23          prior 3 May 2015.

24          A. Yes.

25          Q. I think you said in your Inquiry statements -- in the

## Transcript of the Sheku Bayoh Inquiry

1 first Inquiry statement, you say:

2 "Prior to 3 May 2015 [you] did not have experience  
3 of dealing with a death in police custody."

4 That is paragraph 33, but in your second statement  
5 at paragraph 14, you say:

6 "PIRC had dealt with 30 deaths in custody and [you]  
7 had led personally three of those deaths."

8 There seems to be --

9 A. Yes --

10 Q. -- a disparity there and I wondered if you could help us  
11 understand what the right answer is?

12 A. Certainly. The latter is the right answer because  
13 I looked at that very closely, and checked the ones  
14 I had been involved in.

15 Q. So prior --

16 A. So I can't answer why I just --

17 Q. It may be --

18 A. -- it must be an oversight.

19 Q. Yes. Prior to 3 May 2015, how many deaths in custody  
20 investigations had you been involved in for PIRC?

21 A. Prior to what date sorry?

22 Q. 3 May 2015. As a PIRC investigator, how many deaths in  
23 custody had you been involved with?

24 A. Not leading, just involved in?

25 Q. Let's start with involved with, for PIRC, as a PIRC



## Transcript of the Sheku Bayoh Inquiry

- 1           investigator?
- 2           A. I'm afraid that would be very difficult to put a number  
3           on. I have no recollection of that. The second  
4           statement that you referred me to is as accurate as  
5           regarding involvement in the investigation into deaths.
- 6           Q. Can we take from that that from PIRC coming into  
7           existence on 1 April 2013 up to 3 May 2015, that you had  
8           been involved in three -- leading personally three  
9           deaths in custody?
- 10          A. Yes.
- 11          Q. Can you tell us a little about those deaths in custody  
12          investigations?
- 13          A. I am sorry, without refreshing my memory specifically  
14          with them ...
- 15          Q. Did any of them involve the deaths of a black man in  
16          custody?
- 17          A. No, they did not.
- 18          Q. Were they white men, white women?
- 19          A. I am not sure if they are male or female but I am sure  
20          they were white.
- 21          Q. All three of them?
- 22          A. Yes.
- 23          Q. When we say "in custody", do you remember anything about  
24          the circumstances of the deaths? We have heard there  
25          can be different types of death in custody?

## Transcript of the Sheku Bayoh Inquiry

1       A. Yes, you could have a kind of formal death in custody,  
2       a lot of people would take it was possibly in a cell,  
3       within a police station. However, deaths in custody  
4       also include during the course of arrest, anywhere would  
5       be -- would still be a death in custody as well, which  
6       would be an automatic referral by Crown to us to  
7       investigate as well.

8       Q. We have heard that a death in custody could involve  
9       someone dying from an overdose of drugs in a cell --  
10      while they are in a cell?

11     A. Yes.

12     Q. No involvement of police officers in that matter, they  
13      have been found to have passed away?

14     A. Yes, because they were formally in custody at that time.

15     Q. We have also heard deaths in custody could be during the  
16      course of an arrest?

17     A. Yes.

18     Q. Of the three that you had led personally, do you  
19      remember what category they fell into?

20     A. I'm afraid not, no. I don't remember.

21     Q. You don't remember if any of them were during the course  
22      of arrest by officers?

23     A. No.

24     Q. Can I ask you about your training. You say in your  
25      second statement at paragraph 5:

## Transcript of the Sheku Bayoh Inquiry

1           "There was no PIRC training on carrying out  
2           investigations or more specifically into a death in  
3           police custody."

4           We have got other evidence available to us about the  
5           training that was provided by PIRC. I am thinking about  
6           the period up to May 2015 prior to the incident. Do you  
7           remember having any training about deaths in custody or  
8           carrying out investigations of that sort?

9           A. No.

10          Q. So were you reliant on your experience or training that  
11          you had had as a police officer?

12          A. Yes.

13          Q. Was there any training, during that period you were  
14          working for PIRC on investigations, involving issues  
15          where race or racial discrimination was a factor to be  
16          considered?

17          A. No.

18          Q. Again, were you reliant on your experience or training  
19          as a police officer for that?

20          A. Yes.

21          Q. Had you had any specific training as a police officer on  
22          investigating deaths where race or racial discrimination  
23          was a factor?

24          A. Sorry, could you say the question again?

25          Q. In your experience as a police officer had you had any

## Transcript of the Sheku Bayoh Inquiry

1           specific training, when you were an officer, about  
2           carrying out investigations where race or racial  
3           discrimination was a factor?

4       A. No, I don't recall at all. I think that is unlikely,  
5       I don't think so.

6       Q. Did you have experience of conducting an investigation  
7       of that sort when you were a police officer?

8       A. No, no.

9       Q. Had you had any specific Article 2 training? We have  
10       looked at documents and the five principles, had you had  
11       any specific training when you were in PIRC that related  
12       to that, an investigation that was compliant with  
13       Article 2?

14      A. I don't think so.

15      Q. Had you received any training -- in relation to the  
16      three documents we have looked at, had you had any  
17      training about those or ...?

18      A. I don't have any recollection whether, when the  
19      documents were created, that we then had team  
20      discussions in relation to that. That is a possibility  
21      but as I say I don't recall that far back whether that  
22      actually occurred or not. I would say that would be  
23      a natural progression.

24      Q. But nothing you remember?

25      A. Not anything I specifically recall, no.

## Transcript of the Sheku Bayoh Inquiry

- 1 Q. You said that you were PIP-aware, post-incident  
2 procedure aware?
- 3 A. Yes.
- 4 Q. Can you explain, had you had any training when you were  
5 in PIRC about post-incident procedures?
- 6 A. I think we had had input. Whether that would classify  
7 as formal training~... There was a formal training  
8 course for post-incident process which some of our staff  
9 had gone to with Police Scotland. I hadn't done that,  
10 I haven't done that. But I am sure there was inputs on  
11 the processes and the individual roles that people may  
12 undertake as part of that process.
- 13 Q. So something that you were aware of?
- 14 A. Yes.
- 15 Q. If I was -- but if I was to ask you specific questions  
16 about the standard operating procedure that relates when  
17 they are dealing with post-incident procedures, is that  
18 something you had had any training on?
- 19 A. I am not sure -- I wouldn't be able to answer that,  
20 I can't remember, no.
- 21 Q. I think you had had some PIM awareness training, maybe  
22 before May 2015, PIM awareness?
- 23 A. Yes, it was just going back to what I was talking about  
24 where I think potentially people that were formally  
25 trained within the organisation had then cascaded out

## Transcript of the Sheku Bayoh Inquiry

1           that awareness to everybody because they potentially --  
2           at all levels they could have a position where they  
3           would have to play a part in that, so that awareness  
4           training I think was done for staff.

5         Q. Do you remember how long that training took?

6         A. No, I don't.

7         Q. Was it a lengthy training course with materials and sort  
8           of presentations, or was it something less formal than  
9           that?

10        A. I couldn't say exactly, I'm afraid. I am not sure.

11        Q. Were all investigators made aware through this training  
12           or was it just selective --

13        A. No, I believe so, I think it was cascaded to everybody,  
14           I think.

15        MS GRAHAME: Thank you. I am about to move on, if that  
16           might be an appropriate time.

17        LORD BRACADALE: Very well. We will take a 20-minute break.  
18           (11.30 am)

19   (A short break)

20           (11.56 am)

21        LORD BRACADALE: Ms Grahame.

22        MS GRAHAME: Thank you. I would like to move on to the  
23           initial instruction that you got. You had a call with  
24           David Green from the Crown Office; is that correct?

25        A. That's right.

## Transcript of the Sheku Bayoh Inquiry

1 Q. It may assist if you have in front of you your  
2 operational notes. I think there will be a hard copy,  
3 they are in your own handwriting. This is PIRC 01468.  
4 I think it is page 2 but I think we have a covering  
5 sheet on the -- thank you. That is the page I am  
6 looking for, it's page 3. You will see the handwriting  
7 in the right-hand column, "Sunday 3 May 2015".

8 Your first Inquiry statement which is typed up has  
9 at paragraph 8 has a record of the detail of your  
10 telephone conversation with David Green and that was at  
11 9.35 on the morning of the Sunday?

12 A. Yes.

13 Q. Could I ask, those handwritten notes that we see on the  
14 screen, when did you prepare or write up those notes?

15 A. It would either be during the conversation or just at  
16 the conclusion of it. Depending on the circumstances it  
17 is a bit of both, whether it was right at the time or  
18 immediately after, but it was contemporaneous.

19 Q. On Sunday 3 May you were on call that day?

20 A. Yes.

21 Q. Were you in Hamilton at your desk, or were you at home  
22 when you received this call?

23 A. No, I was at home.

24 Q. When you are on call as PIRC investigator there is  
25 information in some of the statements that you do it on

## Transcript of the Sheku Bayoh Inquiry

- 1 a rota basis?
- 2 A. Yes, that is right.
- 3 Q. Can you stay at home and wait and be ready if you  
4 receive a call but you may not receive a call?
- 5 A. It would be the latter the vast majority of time.  
6 Unless it was your normal working day then you would be  
7 at home or elsewhere, doing as close to normal as  
8 possible.
- 9 Q. So you are on call on Sunday 3 May, you are available,  
10 you have your phone beside you, but not necessarily  
11 sitting in the office?
- 12 A. No, more often than not, not sitting in the office.
- 13 Q. So these would have been -- these handwritten notes  
14 would have been prepared at the time or shortly after  
15 the call with David Green?
- 16 A. Yes.
- 17 Q. What I will do is I will read out what is in the  
18 statement to the Inquiry and would you mind looking  
19 at your handwriting and make sure that I am not making  
20 any mistakes.
- 21 A. Sure.
- 22 Q. If I say anything wrong when I read your writing, please  
23 just stop me and let me know.
- 24 A. Okay.
- 25 Q. Thank you:



## Transcript of the Sheku Bayoh Inquiry

1 "Calling re ..."

2 So this was 9.35 hours, call from David Green, we  
3 see that at the top. We will hear that David Green is  
4 from Crown Office:

5 "Calling re a death in police custody in the  
6 Kirkcaldy area. He has received report from  
7 Police Scotland that they attended an incident at 07.00  
8 this morning, somewhere in Kirkcaldy town centre."

9 Is that all correct so far?

10 A. Yes.

11 Q. "Report was of a black male with a knife above his head  
12 causing a serious disturbance~..."

13 Is that correct?

14 A. Yes.

15 Q. "... (full location ...)"

16 This is in brackets:

17 "... (full location unknown at present)."

18 "Male and female uniformed officers attend locus,  
19 challenge male, fight takes place during which CS and  
20 baton used."

21 A. Yes.

22 Q. "Eventually placed in police vehicle and he subsequently  
23 collapses. Paramedics attend the scene and do CPR."

24 Is that correct?

25 A. Yes.

## Transcript of the Sheku Bayoh Inquiry

1 Q. "Taken to Kirkcaldy Royal Infirmary and dies at  
2 09.04 hours."

3 A. Yes.

4 Q. Thank you. In your second statement, and we could maybe  
5 put this up on the screen, SBPI 00382. I am interested  
6 in paragraph 44, please. At this stage you are talking  
7 about a later call which I will come back to and your  
8 responses, if we can look at that, further down:

9 "Prior to my second telephone call with Mr Green, my  
10 understanding from him was that the PIRC were to  
11 investigate the police involvement and physical  
12 interaction with Mr Bayoh leading to his death, which  
13 would include the actions of the deceased and police  
14 officers in Hayfield Road, Kirkcaldy."

15 So this -- is it correct to say that was your  
16 understanding --

17 A. Yes.

18 Q. -- prior to the second call?

19 A. The second call, yes, which had some more detail within  
20 it.

21 Q. You also say in an earlier statement, one of the PIRC  
22 statements we looked at, at the beginning -- I don't  
23 need you to put this on the screen -- that no formal  
24 instructions came from Crown that day, they were  
25 intended to follow in due course?

## Transcript of the Sheku Bayoh Inquiry

- 1 A. Yes, and that would be normal. Very rarely, if at all,  
2 we would get a written instruction on the same day.
- 3 Q. On the day.
- 4 A. Particularly given it was a weekend as well.
- 5 Q. So in terms of your understanding at that point, having  
6 had your conversation with David Green in the morning,  
7 and knowing that PIRC were to be instructed, what was  
8 your understanding of the scope of the investigation  
9 PIRC were to carry out?
- 10 A. It was to investigate the interaction with the police  
11 leading up to his death and the subsequent -- the  
12 activity at Kirkcaldy hospital.
- 13 Q. We have heard evidence that your role at that time was  
14 restricted to the events in Hayfield Road?
- 15 A. Yes.
- 16 Q. And then in Victoria Hospital --
- 17 A. Yes.
- 18 Q. -- where he had been taken?
- 19 A. And that was subject of the other part of the extended  
20 conversation with Mr Green, later, was clarifying that  
21 was basically Hayfield Road and the hospital.
- 22 Q. So at the beginning when the conversation is taking  
23 place, what was your understanding of what  
24 Police Scotland would investigate?
- 25 A. I got more clarity on that during the second

## Transcript of the Sheku Bayoh Inquiry

1 conversation with Mr Green, which wasn't too long after  
2 that, that they would continue with any investigative  
3 work in relation to the other scenes and the activity  
4 some time prior to Mr Bayoh's interaction with the  
5 police officers.

6 Q. So was there effectively a split at that point?

7 A. At that point, yes.

8 Q. The police would continue to have the authority to  
9 investigate events prior to Hayfield Road but PIRC would  
10 have the authority and the responsibility to deal with  
11 events at Hayfield Road and in the hospital?

12 A. Yes, obviously that changed, I think it was on the 4th  
13 I think.

14 Q. But at that initial --

15 A. That initial stage, that is what it was.

16 Q. -- stage, there was effectively two investigations to be  
17 run: one the responsibility of the police, one the  
18 responsibility of PIRC?

19 A. I would describe them as parallel.

20 Q. Parallel investigations.

21 A. Yes.

22 Q. You also say in your second statement at paragraph 19:

23 "I do not recall being aware of the legislative  
24 basis upon which PIRC were instructed to investigate."

25 Earlier this morning you talked, and you explained

## Transcript of the Sheku Bayoh Inquiry

1           the distinction between (b) (i) and (b) (ii), (b) (i) being  
2           the criminal investigation and (b) (ii) being the  
3           circumstances?

4           A. Yes, it is maybe the wording, I mean, to me it was  
5           a (b) (ii), there was no any other outcomes from that.

6           Q. You said you weren't aware about the legislative basis.  
7           Now, when I asked you questions about that this morning,  
8           you said you would take a different -- PIRC would take  
9           a different approach depending on which (b) (i) or  
10          (b) (ii) it was. What impact did that have on your  
11          actions at that point, at that early stage?

12          A. To be honest I would take it as read it was a (b) (ii)  
13          because it had come from Mr Green who was the head of  
14          the Scottish Fatalities Unit. So I went on that basis.  
15          I didn't have any doubt that that was how it was being  
16          referred.

17          Q. So you proceeded from that very first call on the basis  
18          it was a (b) (ii)?

19          A. Yes.

20          Q. And it wasn't criminal investigation?

21          A. Yes. Definitely.

22          Q. Did that make a difference to your approach generally in  
23          relation to the investigation, or to how you proceeded  
24          at that point?

25          A. Yes.

## Transcript of the Sheku Bayoh Inquiry

- 1 Q. What difference did that make?
- 2 A. Obviously I had to consider, once I was properly  
3 briefed, or as far as I could be, on what the situation  
4 was at that time, what had occurred, then to set my kind  
5 of strategy and priorities of what we were going to do,  
6 how we were going to approach it, what staff we would  
7 need potentially, what we were going to require  
8 Police Scotland to do moving forward and that obviously  
9 developed as the day went on. And clarification of the  
10 status of the police officers.
- 11 Q. You talked earlier about if it was a (b) (i), a criminal  
12 investigation, there would be changes to the status of  
13 the officers involved. Would there be more stringent  
14 requirements if it was a criminal investigation under  
15 (b) (i)?
- 16 A. Yes, we would have to be aware of the fact there was  
17 a number of officers involved, what evidence we had at  
18 the time, which would suggest any sort of criminal  
19 allegation and specific -- the identification of  
20 officers would be paramount in that on any subsequent  
21 interaction any of the staff could have, or any of the  
22 Police Scotland staff as well, in relation to what they  
23 could be asked to do, yes.
- 24 Q. Would it have made a difference to your approach to  
25 conferral, avoiding conferral between the officers, if

## Transcript of the Sheku Bayoh Inquiry

- 1           it had been a (b) (i) rather than the (b) (ii)?
- 2       A. It would be pretty much the same because you would
- 3           expect that there is no conferring in relation to the
- 4           incident.
- 5       Q. So your expectation would be that the police wouldn't --
- 6           would be told not to confer?
- 7       A. Yes.
- 8       Q. And wouldn't confer?
- 9       A. I would expect that from the offset, from -- prior to us
- 10           being involved and actually getting there.
- 11      Q. Whose responsibility would it be to ensure that
- 12           the police are not conferring?
- 13      A. One of the senior police officers at Kirkcaldy, or that
- 14           had been brought to the incident.
- 15      Q. Did you consider that you had any responsibility to
- 16           ensure that there was no conferral, as the lead
- 17           investigator?
- 18      A. Not at that time, no. As I say, if the circumstances
- 19           had been different and we referred back to the
- 20           documentation that you showed me earlier, then that is
- 21           quite clear that that is part of the post-incident
- 22           process, but not at that time.
- 23      Q. You have told us you weren't aware that there was
- 24           a post-incident procedure --
- 25      A. That is correct.

## Transcript of the Sheku Bayoh Inquiry

1 Q. -- in place at that time. But had there been, you think  
2 the procedures would have been different?

3 A. Yes.

4 Q. We have heard from Conrad Trickett that if there is  
5 a post-incident procedure in place, that officers who  
6 are suspects are removed from that process?

7 A. Yes.

8 Q. Is that your understanding?

9 A. Yes.

10 Q. Did you consider this split, this parallel  
11 investigation, to be helpful or a hindrance to the PIRC  
12 investigation?

13 A. I wouldn't say it was -- I didn't view it as a hindrance  
14 at that time but obviously there was a re-evaluation of  
15 the circumstances and the fact that the wider part of  
16 the incident was much clearer, that that was a build-up  
17 to the subsequent events in Hayfield Road, so once that  
18 was clearer, there was the decision made that that was  
19 all incorporated into one investigation.

20 But to be fair, on the day, I don't think it  
21 hindered me but there was still significant  
22 communication between myself and the SIO on a regular  
23 basis, and other police staff, in relation to whatever  
24 developments were occurring in relation to the other  
25 scenes and associated events.



## Transcript of the Sheku Bayoh Inquiry

- 1 Q. We may hear later that it was on 5 May that the first  
2 letter of instruction --
- 3 A. Yes, I am aware of that.
- 4 Q. -- came in from the Crown, and from then on the  
5 investigations were combined?
- 6 A. Yes.
- 7 Q. At the time, on 3 May when there was the split, the  
8 parallel investigations, how was that distinction and  
9 that split communicated to the police, the officers with  
10 Police Scotland -- any officers with Police Scotland?
- 11 A. It was communicated to the SIO, it was also made  
12 reference to in detail at the Gold Group meetings as  
13 well. Possibly both meetings at that time.
- 14 Q. Who communicated that to the SIO?
- 15 A. Me.
- 16 Q. You. We have heard the SIO was Pat Campbell.
- 17 A. Yes.
- 18 Q. When did you communicate that to him?
- 19 A. It would be after the conversation with Mr Green at some  
20 point. I don't know if there is reference in my own  
21 notes to that, but --
- 22 Q. Please feel free to look at them if they help you. We  
23 have talked about the 9.35 discussion with David Green,  
24 and in your statement you also talk about the 12.30  
25 conversation, a second call with David Green.

## Transcript of the Sheku Bayoh Inquiry

- 1 (Pause).
- 2 A. Yes, certainly the 12.30 conversation with Mr Green, he  
3 confirmed the position as regards what we dealt with in  
4 the two scenes.
- 5 Q. So, between the 9.35 call and the 12.30 call with  
6 David Green, were you clear during that period that  
7 there were to be parallel investigations?
- 8 A. Sorry, what was the first time?
- 9 Q. 9.35, that is on page 3 of your operational notes. That  
10 is the --
- 11 A. 9.35 was obviously the initial call with Mr Green. No,  
12 that wasn't confirmed until the second conversation that  
13 I had with him, we had an extended conversation and  
14 I was then directed to deal with it in that manner.
- 15 Q. So in the period between 9.35 when PIRC have been  
16 officially appointed and 12.30, it wasn't clear to you  
17 that there was to be parallel investigations?
- 18 A. No, initially it was to investigate the interaction with  
19 the police leading up to the death. Then, obviously  
20 from the conversations I had with the PSD representative  
21 and subsequently Pat Campbell, we obviously got more  
22 information on -- that was known for the investigation  
23 at that time which was summarised to Mr Green in the  
24 next conversation and then that is when that decision  
25 was made.

## Transcript of the Sheku Bayoh Inquiry

1 Q. Up until 12.30, you thought you were taking the lead on  
2 everything; is that fair to say?

3 A. No, I wouldn't say I thought that the interaction -- my  
4 knowledge at that time was that was in Hayfield Road,  
5 and that is -- you know, there had been prior  
6 involvement and activity that led up to the incident,  
7 and that is part -- I had to acquire all that additional  
8 information to get a wider picture and that was part of  
9 the reason that I subsequently discussed that with  
10 Mr Green, when I was more aware of what had happened.

11 Q. Prior to your 12.30 conversation with David Green, did  
12 you appreciate in any way that there had been a lead-up  
13 to the event at Hayfield Road?

14 A. Yes, I am sure I had some awareness of what was going  
15 on, that there was some -- there had been events prior  
16 to that which had involved Mr Bayoh and others.

17 Q. Prior to 12.30, who did you believe was investigating  
18 those prior events?

19 A. Still Police Scotland.

20 Q. So you did know that there was to be a parallel  
21 investigation by Police Scotland after 9.35?

22 A. Yes, these events were already ongoing as regarding  
23 activities and trying to acquire further information,  
24 the wider scope of the previous incidents, and obviously  
25 I was made aware of that.

## Transcript of the Sheku Bayoh Inquiry

- 1 Q. Did the 12.30 conversation simply reinforce what you  
2 already believed was the position?
- 3 A. Yes.
- 4 Q. In your understanding how was the information about  
5 the parallel investigation communicated to the police?
- 6 A. As I say, it was either prior to or during the first  
7 Gold Group meeting that I attended that articulated the  
8 discussion, and the more definitive direction that I had  
9 received from Mr Green.
- 10 Q. If we have heard some of the officers give evidence and  
11 say they thought PIRC were coming in to deal with  
12 everything, would that surprise you? This is in the  
13 morning.
- 14 A. Yes, it depends at what time in the morning.
- 15 Q. So what time in the morning do you think they should  
16 have stopped believing that?
- 17 A. When I gave them a definitive update on the direction  
18 that we had had from Crown.
- 19 Q. You have mentioned the Gold Group meeting, the first one  
20 you attended. We may hear that was at 2.40 in the  
21 afternoon.
- 22 A. Yes.
- 23 Q. So would that be the point at which you gave that  
24 definitive information to Police Scotland?
- 25 A. That would be the latest point. As I say, that may have

## Transcript of the Sheku Bayoh Inquiry

1           taken part of the conversation that I had with  
2           Pat Campbell and others prior to that taking place.

3           Q.   When was that conversation with Pat Campbell?

4           A.   Just immediately before that Gold Group meeting.

5           Q.   We will come on to this but we may hear that there had  
6           been a handover or a briefing in the period immediately  
7           prior to the second Gold Group meeting, which was  
8           attended by Pat Campbell?

9           A.   Yes, I think you referred to that as the formal handover  
10          earlier.

11          Q.   Yes.

12          A.   Yes.

13          Q.   So it was at that formal handover that you explained the  
14          split, the parallel investigations, to Police Scotland,  
15          was it?

16          A.   Yes.

17          Q.   What were your expectations in terms of expecting the  
18          police to be aware that there was to be this parallel  
19          investigation or split prior to that meeting you had  
20          with Pat Campbell, the handover?  Who did you expect to  
21          be explaining to Police Scotland that PIRC weren't doing  
22          everything, there was going to be a parallel  
23          investigation?

24          A.   That would be initially through Pat Campbell, to be  
25          cascaded out.

## Transcript of the Sheku Bayoh Inquiry

1 Q. So if you only told him at say prior to the 2.40  
2 Gold Group meeting what the position was, who would you  
3 have expected to tell Pat Campbell about the parallel  
4 investigation?

5 A. I would have done.

6 Q. Right. You have explained that you told him during the  
7 handover. What was happening between the period from  
8 7.30 in the morning to the handover prior to the  
9 Gold Group meeting?

10 A. I don't know if there was reference because obviously  
11 after I spoke to Dave Green ... or have I spoken to him  
12 again?

13 Q. You spoke to him again at 12.30. Will we look at your  
14 notes on the 12.30 call, I think it's page 5 at the  
15 bottom, "Call to Dave Green". Do you want to read those  
16 out?

17 A. "Call to Dave Green."  
18 That is at 12.30:  
19 "Provided situational update. He wants to see press  
20 release, prefers early PM. Confirms PIRC deal with  
21 incident scene and hospital."  
22 And then there is a follow-up call ten minutes later  
23 to Pat Campbell. I asked him to confirm regarding  
24 footwear, status of officers as witnesses,  
25 Stuart Houston scene co-ordinator~...

## Transcript of the Sheku Bayoh Inquiry

1 Q. So there is these two calls, one at 12.30, one at 12.40,  
2 one after the other. One is with Dave Green, he  
3 confirms that PIRC are to deal with the incident scene  
4 and the hospital.

5 A. I think logically I would have said to Pat Campbell at  
6 that time, during that conversation, although it is not  
7 noted there -- on the day you are not going to note  
8 everything -- but you know that is obviously  
9 significant, and then it would be further discussed and  
10 it was certainly then raised at the Gold Group meeting  
11 later on.

12 Q. So you would have had a conversation with Pat Campbell  
13 which is noted there at 12.40 --

14 A. Yes.

15 Q. -- where you confirmed, having received confirmation  
16 from Dave Green, confirmed that PIRC are dealing with  
17 the incident scene and the hospital --

18 A. Yes --

19 Q. -- only?

20 A. -- I would -- as I say, I don't specifically remember  
21 the exact conversation and I haven't noted that that  
22 formally took place, but to my mind that would be  
23 an obvious thing, particularly after that very recent  
24 conversation with David Green.

25 Q. I think a short moment ago you had said that that

## Transcript of the Sheku Bayoh Inquiry

1 conversation with Dave Green was simply confirming your  
2 understanding --

3 A. Yes.

4 Q. -- of the scope of your investigation?

5 A. Yes, and by that time I had received, obviously, updates  
6 from PSD and from Pat Campbell in relation to the wider  
7 knowledge of the circumstances and what had been done to  
8 date, which -- I don't know the extent of Mr Green's  
9 initial briefing that he got, and obviously there is  
10 information within that that transpired is not correct  
11 anyway, so it's -- I would think it would be very  
12 limited in the circumstances that he would get.

13 Q. So you've confirmed that to Pat Campbell when you spoke  
14 to him. But prior to that call with Pat Campbell at  
15 12.40, had you had a specific conversation with  
16 Pat Campbell about the parallel investigation?

17 A. I don't think so, not at that stage.

18 Q. So you certainly hadn't shared that with Pat Campbell at  
19 that time?

20 A. No, I don't think so, prior to that, no.

21 Q. Let's look at the information you were initially given  
22 in your role. Can we look at your first Inquiry  
23 statement, which is SBPI00259. I am interested in  
24 paragraphs 7 and 8. This is where you talk about some  
25 initial information that was given to you by



## Transcript of the Sheku Bayoh Inquiry

1 David Green, the person from Crown Office. And you are  
2 referring back to one of your earlier statements. You  
3 say:

4 "Mr Green confirmed a number of police officers  
5 attended this incident and on their arrival  
6 an altercation took place between this, as yet  
7 unidentified male, and the officers."

8 Do you remember this?

9 A. Yes.

10 Q. "During this altercation he told me that CS spray had  
11 been discharged and the officers had used their batons.  
12 He added, that during a subsequent struggle the male  
13 collapsed and an ambulance was summoned. He was  
14 subsequently taken to hospital where life was pronounced  
15 extinct at 09.04 hours.

16 "I am asked whether the order of events suggested to  
17 me that Mr Bayoh had instigated the altercation. Yes.  
18 The inference was that the male's actions had resulted  
19 in the police attendance and then subsequently having to  
20 take some sort of action on the circumstances that they  
21 met and that was my summation of what he was telling  
22 me."

23 So you have explained your understanding of the  
24 chronology of events as was shared with you by  
25 David Green?

## Transcript of the Sheku Bayoh Inquiry

1 A. Yes.

2 Q. When you are talking about these notes, and you are  
3 talking in paragraph 8 about your operational notes,  
4 were these notes here and the operational notes again  
5 made roughly about the time of the call or shortly  
6 after, or was this at a different time?

7 A. Probably shortly after, I would think.

8 Q. So let's look at paragraph 8. You say:

9 "I have been asked about my Operational Notes~...  
10 which record the detail of my telephone conversation  
11 with David Green at 0935."

12 We have looked at this already:

13 "Calling re a death in police custody in the  
14 Kirkcaldy area. He has received a report from  
15 Police Scotland that they attended an incident at 0700  
16 this morning somewhere in Kirkcaldy town centre. The  
17 report was of a black male with a knife above his head  
18 causing a serious disturbance. Full location unknown at  
19 present. Male and female uniformed officers attend  
20 locus, challenge male, fight takes place during which CS  
21 and baton used. Eventually placed in police vehicle and  
22 he subsequently collapses. Paramedics attend the scene  
23 and do CPR."

24 So again, from this information that you have noted  
25 here in your notes am I correct in saying that

## Transcript of the Sheku Bayoh Inquiry

1           the information you were being given by David Green  
2           suggested that the subject was the aggressor and  
3           officers have reacted in self-defence by using sprays  
4           or --

5       A.   That was --

6       Q.   -- batons?

7       A.   -- the general picture that was created by what I was  
8           told.

9       Q.   Thank you.  Now, we have heard that the main witnesses,  
10           key witness, to the event in Hayfield Road were the  
11           officers, they hadn't given statements, initial  
12           accounts, basic facts at this stage?

13      A.   No.

14      Q.   So this was the information you were being given about  
15           the circumstances, primary information you were  
16           receiving from the Crown?

17      A.   Yes.

18      Q.   Can we look at -- again, it's in your operational notes,  
19           paragraph 9 in your statement.  We will keep that on the  
20           screen but you are very welcome to look at your notes.  
21           Then you talk about your operational notes:

22                 "... the details of a telephone call with  
23           Superintendent Craig Blackhall, from the Police Scotland  
24           Professional Standards Department at 1001 hours.  He  
25           provides [you] with a short summary of the circumstances

## Transcript of the Sheku Bayoh Inquiry

1           and I have noted ..."

2           This is your -- what you have written down in your  
3           operational notes:

4           "About 0700 hours, a number of calls to  
5           Police Scotland regarding African male armed with  
6           a knife in town centre of Kirkcaldy. Suspect makes run  
7           at female police officer and assaults her. Suspect is  
8           CS'ed, but this has little effect and he laughs.  
9           Suspect struck with baton at least once. A number of  
10          police officers attend the locus. Suspect was  
11          unconscious on the ground. CPR done by police and then  
12          by paramedic short time later."

13          So this is the second source of information you had  
14          and this comes from Superintendent Blackhall at PSD?

15         A. Yes.

16         Q. Again, were those notes made roughly about the time?

17         A. Yes.

18         Q. Again, from what you have written here -- we can see on  
19          the screen -- again, does it suggest that a man who is  
20          armed with a knife:

21          "... makes a run at a female officer and assaults  
22          her."

23          So the subject is the aggressor?

24         A. It is painting that -- a similar sort of picture but  
25          some of the detail was slightly different.

## Transcript of the Sheku Bayoh Inquiry

- 1 Q. Slightly different detail, but again: subject aggressor,  
2 police act in self-defence. Is that a fair reflection  
3 of what the information is that you received from --
- 4 A. Basically the police were responding to a set of  
5 circumstances where -- and they described the build-up  
6 to it and someone being in possession of a knife.
- 7 Q. And those police officers had to use their CS spray and  
8 their baton at least once?
- 9 A. Yes.
- 10 Q. In response to the actions taken by the subject?
- 11 A. Yes.
- 12 Q. You also note that a number of police officers attend  
13 the locus, that seems to be after the incident with the  
14 aggression and the CS spray and the baton, was that  
15 the order that was given to you?
- 16 A. Yes. Obviously I don't know where Craig Blackhall's  
17 information is originating from, and whether he was the  
18 one that gave the initial account to David Green or not,  
19 that kind of series of events surrounding that.
- 20 Q. But in terms of the information being supplied to you,  
21 you have had the information from David Green initially,  
22 and then you are now getting a separate call and this is  
23 with Superintendent Blackhall?
- 24 A. Yes.
- 25 Q. So this is the second person you have spoken to and the

## Transcript of the Sheku Bayoh Inquiry

1 information that they are giving you?

2 A. Yes.

3 Q. Having been told this a second time, that the subject  
4 was the aggressor and the police are having to resort to  
5 using spray and batons, did that start to create  
6 an impression in your mind of the situation that you  
7 were dealing with and investigating?

8 A. Only part of it but it was all there to be subject to  
9 clarification as we developed on the day. I couldn't  
10 take it in isolation.

11 Q. I would like to move on and ask you about another call  
12 you received. This was a call at 10.22 hours and this  
13 was with Pat Campbell, the SIO. You will see that some  
14 of this is noted in your operational notes. If we look  
15 at paragraph 12 of your statement, I will go through  
16 this, you have noted down -- in italics there are things  
17 you have noted in your operational notes. So  
18 paragraph 12:

19 "I have been asked about the summary of the  
20 circumstances in my operational notes and where this  
21 material came from. My notes state '07.15 Reporter  
22 states male with knife, Hayfield Road. 3 marked police  
23 vehicles and 1 unmarked car responded. Male appears in  
24 front of them. He runs towards them with knife. Batons  
25 pulled out and CS deployed'. From recollection, I think

## Transcript of the Sheku Bayoh Inquiry

- 1           that came directly from Detective Superintendent  
2           Pat Campbell."
- 3           You have noted this in your operational notes.
- 4       A. Yes, it was basically a timeline of what he provided in  
5           relation to the kind of background as far as he was  
6           aware of it.
- 7       Q. So this is the third person you have spoken to about  
8           the circumstances?
- 9       A. Yes.
- 10      Q. Again, does it appear from what you have noted there --  
11           I should say again were these notes roughly  
12           contemporaneous or shortly after the call?
- 13      A. I think these -- particularly the timeline that I noted  
14           there would be during the call, just basically as he was  
15           giving me it, with the detail that is in there, and the  
16           specific times as well. So I don't know what he was  
17           referring to at the time.
- 18      Q. So this isn't from your recollection --
- 19      A. No, that was --
- 20      Q. -- this is the information that Pat Campbell --
- 21      A. Directly from him, yes.
- 22      Q. It appears to be that on this third occasion when you  
23           speak to Pat Campbell the information given to you is  
24           the male appears in front of officers, he runs towards  
25           them with a knife, and then the police pull out batons

## Transcript of the Sheku Bayoh Inquiry

- 1           and CS is deployed?
- 2       A. Yes, and there is more of -- there's reference to other  
3       witness accounts in the build up to that as well which  
4       were not there in as much detail in the previous  
5       accounts.
- 6       Q. So we are looking at three conversations that you have  
7       had with different people, Green, Blackhall and  
8       Campbell?
- 9       A. Yes.
- 10      Q. And within that period, less than an hour effectively in  
11      terms of the times of the call, it appears that you are  
12      being given information about the circumstances where  
13      the version being given is that the subject was the  
14      aggressor, and the officers had to react to that  
15      aggression by using baton and spray. Is that a fair  
16      summary?
- 17      A. Yes.
- 18      Q. This is all prior to the officers actually giving any  
19      sort of account to PIRC?
- 20      A. Oh, yes, a long time before that.
- 21      Q. Looking back now at those three versions having been  
22      given to you at the outset in a very short period of  
23      time, do you think that influenced your perception of  
24      how the event took place and how events carried out?
- 25      A. No, I think it just added to the picture. Still in



## Transcript of the Sheku Bayoh Inquiry

1           these circumstances, particularly where there is so many  
2           different strands involved, there is a lot of witnesses,  
3           there are slightly different varying accounts but that  
4           is all down to who is reporting into these individuals.  
5           So that is part of it, to keep an open mind as things  
6           developed. You don't take it as cast in stone that that  
7           is exactly what happened. And that transpired to be the  
8           case, obviously.

9           Q. What does seem to be consistent from these three  
10          versions is that the subject was the aggressor, and the  
11          police response -- they had to respond in self-defence  
12          by using sprays and batons. Did that consistency --

13         A. I think that is more reporting that these forms of force  
14         were used by the officers, whether it is as strong as  
15         suggesting that that was what they had to do because of  
16         the circumstances, I think is maybe two different  
17         things. It is more just a -- supposed to be a factual  
18         account, timeline of the build up and then what happened  
19         when the officers arrived. I don't think he is saying  
20         that that was wholly justified or anything in that  
21         regard, it was just that that was part of what happened.

22         Q. So there is no narrative here about all the actions of  
23         the officers were justified because they were acting in  
24         self-defence?

25         A. No, no. I don't think so.

## Transcript of the Sheku Bayoh Inquiry

1 Q. But in terms of the chronology of events that is being  
2 presented to you, there is the aggression by the subject  
3 and then a response by the police?

4 A. Yes.

5 Q. You've mentioned keeping an open mind. Obviously we  
6 have heard you didn't get any accounts -- any statements  
7 from the officers until 4 June, which is just over  
8 a month later. They were the witnesses at the scene as  
9 to what happened. There is other evidence available to  
10 the Chair that initially at least PIRC didn't know who  
11 had turned up first or who did what because they didn't  
12 have these statements from the officers.

13 A. Yes.

14 Q. You have talked earlier today about not having had  
15 training in relation to investigations into deaths in  
16 custody with PIRC or investigations that may have  
17 involved issues of race or race discrimination, and I am  
18 interested in on the one hand you say you are keeping  
19 an open mind, on the other there are three versions,  
20 potentially consistent versions, being given to you by  
21 different people initially suggesting a certain  
22 scenario. How did you feel you were equipped to keep  
23 an open mind and to consider the possibility that the  
24 information you were being given was just completely  
25 wrong?

## Transcript of the Sheku Bayoh Inquiry

1           A. These were second-hand accounts. As I say, I don't know  
2           who provided that information, that information may have  
3           all come from one source and it was delivered in  
4           a slightly different way, or whether Pat Campbell got  
5           more detailed information from a variety of sources in  
6           and around the incident. I didn't specifically ask him  
7           that at that stage.

8                        So I would say that I feel we were still able to  
9           keep an open mind as things developed and moved forward  
10          during the course of the day. You can initially only  
11          deal with the information that you have been given, but  
12          still be sensible enough to keep that open mind as  
13          potentially conflicting or slightly different  
14          information comes in at a later stage.

15          Q. Do you have an expectation that the initial information  
16          you have been given is reasonably accurate?

17          A. Oh, yes, but I have been in many circumstances before  
18          where it is just human nature, and things not  
19          deliberately get changed but it is just their  
20          recollection of a discussion with somebody -- it's  
21          a fast-moving incident, maybe an account has been given  
22          by someone who has maybe limited information and they  
23          are doing their best to inform you and make you aware of  
24          that, but it is not necessarily 100% correct. And  
25          again, that transpired to be the case with a few things.

## Transcript of the Sheku Bayoh Inquiry

1 Q. Is it not reasonable for PIRC investigators such as  
2 yourself to take things at face value and proceed on the  
3 basis --

4 A. No.

5 Q. No, that is not reasonable?

6 A. No, not for me. As I say I would always have other  
7 considerations or interpretations of things at the time.  
8 Unless I was more than 100% happy it was 100% factual,  
9 that somebody had presented you with a bit of CCTV and  
10 that is exactly what happened and that has supported  
11 where that has come from. But, as I say, you just have  
12 to -- you accept all information that you've got from  
13 whatever sources, and continue to evaluate that during  
14 the course of the investigation.

15 Q. We have heard evidence in relation to training regarding  
16 race that some officers had had about something called  
17 unconscious bias. And we have -- I have asked officers  
18 about how they can guard against unconscious bias,  
19 because it is not something that people are necessarily  
20 aware of, because it is unconscious.

21 Do you feel you were adequately equipped, yourself,  
22 from your -- well, you said you hadn't had training with  
23 PIRC but maybe from any other training you have received  
24 to guard against that --

25 A. I have certainly never -- I have had training on

## Transcript of the Sheku Bayoh Inquiry

1           unconscious bias but that was after this incident.  
2           I have had a variety of other training but I am aware of  
3           what it is and how it can work with people, and a lot of  
4           times because of the nature of what it is, and the kind  
5           of social stereotyping of people, that they may not even  
6           be aware that they are thinking along these lines and  
7           that is the danger.

8           So I always like to progress and really think about  
9           your decisions, and just take that momentary bit of time  
10          to consider what you are getting and try and alleviate  
11          or negate the fact that that may occur. But it is -- by  
12          the nature of it, it is unconscious and you are --  
13          potentially you are not aware personally that it is  
14          there, but you have to think these things through all  
15          the time, and balance everything up that you are  
16          hearing, and the decisions that you intend to make.

17         Q. Looking back now to May 2015, do you feel you had been  
18          put into the best position to guard against unconscious  
19          bias, never having been given training about that type  
20          of thing?

21         A. I think you can -- let's face it, you can always be  
22          better equipped and, you know, with additional training  
23          in certain areas. I feel on a personal basis that  
24          I think these things through and guard against these  
25          outside influences but you are never going to be able to

## Transcript of the Sheku Bayoh Inquiry

1           say it is a perfect world and everybody is 100% trained  
2           to cover every aspect of every type of investigation  
3           that you come across. So there is a bit of hindsight  
4           science with that.

5       Q. Do you think, now that you have told us you have had  
6           training in unconscious bias, do you think now you are  
7           in a better position to guard against unconscious bias  
8           than maybe you were previously?

9       A. Yes, I would think so. There is definitely a better  
10          understanding of what it actually is, how to guard  
11          against it, how other individuals when they are  
12          conveying information to you or versions of events,  
13          things they may be going through and how they articulate  
14          that to you, so there are a lot of component parts of  
15          that.

16       Q. It is possible that people sharing information with you  
17          could themselves be under the influence, if I can put it  
18          like that, of conscious bias?

19       A. Absolutely, yes.

20       Q. And they could be sharing that with you?

21       A. Yes.

22       Q. In terms of -- you have told us about you trying to keep  
23          an open mind in May 2015. What about the wider team;  
24          how did you help them keep an open mind?

25       A. Obviously before we went we had a briefing. That was

## Transcript of the Sheku Bayoh Inquiry

1 more to articulate our general understanding of the set  
2 of circumstances, but at the time that was very limited.  
3 Did we go into details about, you know, the potential  
4 for unconscious bias? No, I didn't. No. Maybe more so  
5 now in the modern era that may be a consideration but  
6 I certainly couldn't say that I did that at the time.

7 Q. Certainly from the first contact you had with  
8 David Green you were made aware that it was a black  
9 male?

10 A. Yes.

11 Q. Can I move on and ask you some questions about the  
12 change in staffing. Because you were there on 3 May,  
13 you were lead investigator, but we have heard evidence  
14 that that changed; it changed on 4 May, it became  
15 Billy Little?

16 A. Yes.

17 Q. And it changed on 5 May, it became John McSporran. Are  
18 you aware of that?

19 A. Yes.

20 Q. I think we have heard that you were maybe going on  
21 holiday at some point, and that is why you left the role  
22 of lead investigator, is that correct?

23 A. That's correct.

24 Q. When did you leave to go on holiday?

25 A. Maybe five or six days after that, I think. From the

## Transcript of the Sheku Bayoh Inquiry

1 Monday. It was probably towards that weekend, from  
2 recollection.

3 Q. I'm wondering why you weren't kept in that role for  
4 those initial days until you went on holiday?

5 A. Because that -- in essence we knew this was going to run  
6 for a long time and part of the reason, the seriousness  
7 of the incident etc, that was obviously why  
8 John McSparran as the senior investigator was put in  
9 charge to work alongside Billy Little. As soon as the  
10 senior management knew -- well, they were aware I was  
11 going on holiday, then the sensible option was to make  
12 that change immediately. That makes sense. To leave me  
13 for a period of days then change it wouldn't make sense.  
14 It was the much better option to do that immediately.  
15 And that happens a lot, in the police world as well. It  
16 has happened in PIRC on a number of occasions. As long  
17 as you are in a position to give an appropriate detailed  
18 briefing to whoever is going to take that role on, that  
19 is one of the -- the kind of by-products of being on  
20 call is that you are dedicated to cover a weekend.  
21 You're not going to look at it from a point of view of  
22 who's going to carry on in two or three days' time, and  
23 that I wouldn't be in a position to do that, so you  
24 would call somebody else out to cover the incident. The  
25 on-call is there to deal with the matters in hand for



## Transcript of the Sheku Bayoh Inquiry

1           whatever period.

2           Q. You have said in your statement that you were due to go  
3           on leave imminently for two weeks, so you didn't retain  
4           the lead:

5                        "I was not aware on 3 May that I would not be  
6           responsible for leading the investigation from the 4th  
7           onward."

8                        So on 3 May did you assume you would be carrying on  
9           for a few days?

10          A. I don't think I made any assumptions. I don't even  
11          recall thinking about how leave was going to impact on  
12          that. We obviously had that discussion very early part  
13          of the Monday on 4 May, and the senior management  
14          decided that the lead investigator would be Billy Little  
15          and then subsequently John McSporran.

16          Q. I am quite interested in that approach, because we will  
17          hear evidence that John McSporran,  
18          a senior investigator -- so you were at that time  
19          a deputy senior investigator, is that right?

20          A. Yes.

21          Q. He was a senior investigator. He took over on 5 May, as  
22          I think we will hear. I am wondering why there was  
23          a change from you to Billy Little on the 4th. Because  
24          you weren't on holiday and you could have done the  
25          handover with McSporran on the 5th?

## Transcript of the Sheku Bayoh Inquiry

1       A. I wasn't fully a party to the discussions regarding  
2       that, but when you look at the kind of priority things  
3       that were to be dealt with and they wanted that to  
4       involve whoever was going to be engaged in the  
5       investigation moving forward, then -- because I think  
6       Billy was away all day on the Monday at various things,  
7       including the post mortem, that that may have been why  
8       that happened.

9       Q. Would it not have been beneficial to have you continue  
10      in your role until the handover to John McSporran?

11      A. I don't know when the decision and the circumstances  
12      surrounding John being appointed as a more senior  
13      individual. I'm not a party to that, those discussions  
14      and that decision.

15      Q. But Billy Little was the same rank as you?

16      A. Yes, he was.

17      Q. Do you think there would have been benefits, looking  
18      back now with the benefit of hindsight, to you maybe  
19      staying in your role until the senior investigator,  
20      John McSporran, came in to take the lead?

21      A. It depends. I don't know on the Monday if they'd  
22      intended to put a senior investigator in that position  
23      or whether that was after they were more au fait with  
24      where the investigation was going, what was going to be  
25      involved in it. So I don't know that. But, as I say,

## Transcript of the Sheku Bayoh Inquiry

1 I think, you know, the correct decision was not to leave  
2 me for a period of days and then for me to kind of  
3 disappear for a couple of week. I don't think that was  
4 the best option.

5 Q. If Billy Little was away on the 4th, as we will probably  
6 hear, at the post mortem, who was holding the fort as  
7 the lead investigator at that time on the 4th? Do you  
8 remember?

9 A. He still would be at that time, even although he was out  
10 of the office. That wouldn't change the management  
11 oversight, and obviously we had other senior managers  
12 who were by that time very au fait with what had  
13 happened to that point and who would be overseeing  
14 things moving forward as well.

15 Q. Where were you on the 4th?

16 A. In the office.

17 Q. In the office in Hamilton?

18 A. Yes.

19 Q. Who was in Kirkcaldy Police Office that day?

20 A. PIRC resources-wise?

21 Q. Yes.

22 A. The only one I can recollect I think was Alistair Lewis  
23 I think.

24 Q. We may hear that he is a family liaison officer for  
25 PIRC. He's a trained FLO?

## Transcript of the Sheku Bayoh Inquiry

- 1 A. Yes.
- 2 Q. Thank you. You will remember that I asked you earlier  
3 today about the five principles to be  
4 Article 2-compliant and the first of those was about  
5 independence. I would like to ask you some questions  
6 about independence if I may. You have talked about the  
7 importance of that in relation to your understanding of  
8 the role of PIRC. I would like to ask you about prior  
9 contact that you had with officers who were working on  
10 the Sheku Bayoh investigation. You've said in your  
11 first Inquiry statement that you knew  
12 Detective Superintendent Pat Campbell as he had been  
13 a sergeant at CID headquarters in Pitt Street in Glasgow  
14 when you worked on the intelligence side with him, and  
15 there was a sort of cross-over?
- 16 A. Yes, he wasn't in the intelligence that I was in  
17 intelligence at force headquarters. He was more  
18 operational CID.
- 19 Q. So he was operational CID, you were intelligence. But  
20 you had worked with Pat Campbell, had you?
- 21 A. Not really, no. No.
- 22 Q. What does that mean?
- 23 A. He I think was a Detective Sergeant in a role supporting  
24 the senior management, is my recollection. But I don't  
25 ever remember working directly with Pat Campbell at any

## Transcript of the Sheku Bayoh Inquiry

- 1           time.
- 2           Q. You've said in your statement there was some sort of
- 3           cross-over. What did that mean then between your two
- 4           roles? Was there some sort of work engagement with
- 5           Pat Campbell? How did you know him?
- 6           A. Not directly with him, with his senior managers. In the
- 7           role that I did one of the things under my umbrella was
- 8           in relation to covert activity and authorisations for
- 9           such activity and there would be some interaction
- 10          between me and his managers, but that wouldn't, from
- 11          recollection, have ever involved Pat Campbell either.
- 12          Q. So you weren't concerned that would give rise to any
- 13          conflict?
- 14          A. Not at all. No. Definitely not.
- 15          Q. So you have said you knew him, you spoke to him on
- 16          occasions but no --
- 17          A. That was it.
- 18          Q. No connection as such?
- 19          A. No.
- 20          Q. Did you feel it necessary to declare that knowledge of
- 21          Pat Campbell as part of your investigation?
- 22          A. No.
- 23          Q. No. Did it give rise to any concerns in your mind of
- 24          bias or conflict or having an impact on independence?
- 25          A. None whatsoever.

## Transcript of the Sheku Bayoh Inquiry

- 1 Q. Were you concerned in any way about the perception of  
2 the public in relation to your -- you having known  
3 Pat Campbell from previous work in Police Scotland?
- 4 A. No. I think if I had worked closely with him or  
5 socialised with him, then that's a different thing. But  
6 not at the level of contact and knowledge I had.
- 7 Q. When you say "worked closely", what does that sort of  
8 mean? How would -- would that be someone that was your  
9 manager or a colleague or --
- 10 A. Yes, could be a manager or maybe worked on an  
11 investigation and invariably you work in pairs, but  
12 there's quite an age difference between the two of us as  
13 well. So that's one of the other reasons it probably  
14 didn't happen.
- 15 Q. Is he older than you?
- 16 A. I wish.
- 17 Q. And you also knew ACC Nicholson?
- 18 A. Yes, I did.
- 19 Q. That again was from your time in Strathclyde Police?
- 20 A. Yes.
- 21 Q. I think you -- he was the Gold commander, we heard, on  
22 3 May?
- 23 A. He was.
- 24 Q. I think you had spoken to him previously?
- 25 A. Yes.

## Transcript of the Sheku Bayoh Inquiry

1 Q. Did you consider the impact of your prior connection  
2 with ACC Nicholson to be giving rise to possible  
3 conflict or bias?

4 A. No, definitely not.

5 Q. Can you describe your connection with Nicholson for me,  
6 please?

7 A. He was a senior manager on the operations side of CID at  
8 the time that I had a senior role within the  
9 intelligence side of the business. But I had very  
10 little contact with him again.

11 Q. Did you feel it necessary to declare your knowledge in  
12 connection with Nicholson?

13 A. No.

14 Q. Did you have any concern about the perception of that  
15 contact with Nicholson --

16 A. No.

17 Q. -- in relation to the public?

18 A. No.

19 Q. I would like to ask you to comment on some evidence we  
20 have heard from Collette Bell. She was the partner of  
21 Mr Bayoh. She gave evidence on Day 40 of the Inquiry  
22 in February of last year and she said she was aware that  
23 PIRC were made up of ex-police and she said:

24 "I think I had lost all trust in the police at this  
25 point and I didn't really want anything to do with the

## Transcript of the Sheku Bayoh Inquiry

1 police or PIRC because I thought they're all made up of  
2 ex-police officers and they're supposed to be  
3 independent, but how independent can you be if it's all  
4 ex-officers that are -- that make up PIRC. It's not  
5 really transparent if it's the police investigating the  
6 police. I remember just feeling very defensive and  
7 I thought this just isn't very fair. You're supposed to  
8 be transparent."

9 That was her evidence to the Inquiry. Do you have  
10 any comments to make about that or concerns yourself  
11 about this perception that a member of the public has in  
12 relation to PIRC?

13 A. The first comment I would make is factually that  
14 obviously I mean it's -- the PIRC is not made up of 100%  
15 police officers, which is the inference from what  
16 Ms Bell had said there. There is a lot of investigators  
17 from other investigative backgrounds, and that I would  
18 say is quite important. Perception is a very difficult  
19 thing to combat and some of the people will get  
20 definitive views and will not move from that no matter  
21 what they see and hear. If you look at a lot of the  
22 previous investigations that have gone into the public  
23 forum on our website, et cetera and some of the outcomes  
24 and findings with these would hopefully -- for any  
25 members of the public who read these would show some of



## Transcript of the Sheku Bayoh Inquiry

1           the strong outcomes from these investigations, that  
2           there was no bias and that they are basically just  
3           saying what occurred and giving the proper outcomes from  
4           these investigations. That is part of probably  
5           understanding and trying to combat perceptions which we  
6           think are misplaced.

7           Q. Of the PIRC investigators who were in Kirkcaldy Police  
8           Office on 3 May were any of them not police or former  
9           police officers?

10          A. Yes, one.

11          Q. Who was that?

12          A. Stuart Taylor.

13          Q. What was his background?

14          A. I don't know what he did before he joined the  
15               organisation but he came through our trainee programme  
16               from his previous employment through that probationary  
17               period, trained and became an investigator and he is now  
18               deputy senior investigator and has been for a few years.

19          Q. I think earlier today you said there were six  
20               investigators who were in Kirkcaldy that day?

21          A. Including myself, yes.

22          Q. Including you. So seven investigators --

23          A. No, six including myself.

24          Q. Sorry, six including yourself.

25          A. And one at the office.

## Transcript of the Sheku Bayoh Inquiry

1 Q. Would that be Casey --

2 A. Yes.

3 Q. -- who was in the office. And that is in Hamilton?

4 A. Yes.

5 Q. And Taylor was not from a police background?

6 A. No.

7 MS GRAHAME: I am going to stay with this topic but I am  
8 going to move on to different issues.

9 I wonder if that would be an appropriate time?

10 LORD BRACADALE: We will stop for lunch and sit at  
11 2 o'clock.

12 (1.00 pm)

13 (The short adjournment)

14 (2.00 pm)

15 LORD BRACADALE: Ms Grahame.

16 MS GRAHAME: Thank you. Before lunch I was asking you some  
17 questions about independence and conflict, to ask you to  
18 comment.

19 As I understand the information we have, there was  
20 a code of conduct for employees who worked for PIRC, at  
21 least in March 2014, and that give some guidance to  
22 members of staff about conflicts and maintaining  
23 independence and what would happen if they were faced  
24 with an ethical dilemma.

25 I think I touched on this earlier this morning, that

## Transcript of the Sheku Bayoh Inquiry

1           the police are a hierarchical organisation with rank,  
2           and I asked certain witnesses to give evidence about  
3           the -- whether individual officers would feel they could  
4           speak up if they saw something that they weren't  
5           comfortable with, and I want to ask you that in relation  
6           to PIRC. Do you think individual investigators would  
7           feel comfortable speaking up if they saw something they  
8           weren't happy with or they felt something wasn't being  
9           done properly?

10          A. By Police Scotland senior managers?

11          Q. In relation to PIRC. Let's say first of all a PIRC  
12          investigator sees something being done in relation to  
13          a PIRC -- another PIRC investigator, or they have missed  
14          something or they feel concerned about something; do you  
15          think they would be willing to speak up about that?

16          A. These sort of thing are an individual choice. I think  
17          the atmosphere and the way that the organisation  
18          operates would encourage that sort of thing. But  
19          sometimes for people that is not enough, so I couldn't  
20          comment on everyone on a personal basis, but certainly  
21          for me I would -- if I was giving an opinion on that  
22          I would say the organisation was very open and would  
23          encourage reporting of anything such because, as we  
24          discussed before, the independence aspect and the public  
25          perception of what we do is highly important, we stand

## Transcript of the Sheku Bayoh Inquiry

1           and fall by that. So, as I say, we would always  
2           encourage staff to bring any like issues to the  
3           attention of senior management.

4           Q. Would you say that the atmosphere in PIRC is quite  
5           encouraging and open to discuss constructively issues  
6           that arise?

7           A. Yes, I would say so, yes.

8           Q. Let's look briefly at the code of conduct, the Chair can  
9           obviously read this at his leisure. It is PIRC 04574.  
10          This is dated March 2014, "Code of conduct for  
11          employees". Do you recognise this document --

12          A. Yes.

13          Q. -- on the screen? We will very briefly -- it says at  
14          the outset that it's an important document and it:  
15                 "... sets out the standards of behaviour the PIRC  
16          expects of its staff. You should read it and if you do  
17          not understand how the Code applies to you, you should  
18          ask your line manager to go through it with you. In  
19          future, it will be part of the induction process so all  
20          new staff will have it drawn to their attention when  
21          they start work."

22                 Was this available to all staff?

23          A. Yes, we have had an induction process which has sort of  
24          grown over the years, and one of the parts of that is  
25          for all staff to make themselves aware of the various

## Transcript of the Sheku Bayoh Inquiry

1           procedures and processes in the documents that relate to  
2           that.

3           Q. Is that something you have been through as well, the  
4           induction process, or was it just for new staff?

5           A. Just for new staff, yes.

6           Q. We will see on the front page as we scan down there is,  
7           "Diversity and equal opportunities":

8                     "The PIRC attaches high value to diversity and  
9           working to eliminate unlawful discrimination."

10           Then, "Identifying and declaring a conflict of  
11           interest", I asked you before lunch about certain  
12           situations and whether you had felt that was necessary  
13           to declare an interest but it is this code of conduct  
14           that sets that out?

15           A. Yes, and that is a certainly something I have been  
16           involved in, in the past, where staff have declared  
17           potential conflict to err on the side of safety for  
18           investigations.

19           Q. Then, "Security and confidentiality of information", and  
20           that is reinforcing the requirements in terms of data  
21           protection, and then, "Concerns about improper conduct",  
22           and the code also explains what you should do if you  
23           have a concern that illegal or improper activities may  
24           be going on in PIRC and how to raise those. If we can  
25           go on to page 5, please in the centre of this page, this

## Transcript of the Sheku Bayoh Inquiry

1 is the introduction, if we look at the centre of the  
2 page, there is a section, "Independence", and it says:

3 "We demonstrate our independence by:

4 "Our resolve under pressure.

5 "The people we appoint.

6 "The work we undertake.

7 "Scrupulously avoiding conflicts of interest.

8 "Our organisational culture.

9 "The communications we make."

10 When it says, "The people we appoint", what does  
11 that mean?

12 A. I think that means the people that are taken into  
13 employment in the organisation or are appointed to move  
14 to a more senior level within -- internally within the  
15 organisation.

16 Q. When people are appointed, is there a process where they  
17 are asked about any -- you know, independence and the  
18 importance of that is explained and they are asked about  
19 any conflicts or issues they may have?

20 A. When appointed to the organisation initially?

21 Q. Yes, independence is demonstrated by "the people we  
22 appoint", so when those people are appointed, is there  
23 a process where that is gone through?

24 A. A lot of these will be touched upon in the interview  
25 processes, because again equality and diversity in

## Transcript of the Sheku Bayoh Inquiry

1 particular is a major thing within the organisation and  
2 has become even more important over recent years, and  
3 invariably that will be included in some aspects through  
4 the interview process.

5 Q. When you were appointed was independence discussed with  
6 you?

7 A. I believe it was.

8 Q. Do you remember anything about that?

9 A. Not specifically, I'm afraid, no.

10 Q. Was the fact you had been in the police for almost  
11 30 years raised with you to see whether you could be  
12 independent as part of the team at PIRC?

13 A. I think that was -- there was some form of questioning,  
14 I recall, through the interview process in relation  
15 to -- I am sure there was, in relation to that, and how  
16 you could kind of demonstrate that and again so that  
17 the, you know, public perception was such that although  
18 you may have served a long period in the police that you  
19 had the capability to be independent and, you know, to  
20 evidence that in some way, in how you articulate that.

21 Q. Thank you. Can we look at page 7 please. There are  
22 a number of bullet points listed:

23 "As an employee you have a responsibility to ..."

24 I won't read all of these but we can see as  
25 an employee of PIRC you have a responsibility to:

## Transcript of the Sheku Bayoh Inquiry

1            "... treat complainants, those investigated and  
2            other stakeholders with fairness, courtesy and  
3            sensitivity to their needs and the situation they are  
4            in."

5            There is:

6            "Consider others in the exercise of your duties.

7            "Express your point of view without being aggressive  
8            or overbearing.

9            "Learn from your mistakes."

10           Those are just some I have read out.

11          A. Yes.

12          Q. Was it something you were aware of, that those  
13            responsibilities were part of the duties of a PIRC  
14            employee?

15          A. Very much so.

16          Q. Was the importance of those made clear to PIRC  
17            employees?

18          A. Yes.

19          Q. Now, we've heard evidence that -- you have talked about  
20            getting support from the police as part of your  
21            investigation. We have heard evidence that as part of  
22            the actions taken by Police Scotland on 3 May that  
23            officers were brought in to Kirkcaldy or into the  
24            investigation to assist generally, and some of those  
25            came from other legacy force Fife Police, so in May 2015



## Transcript of the Sheku Bayoh Inquiry

1           it was Police Scotland but prior to the 1 April 2015 --  
2           2013, there had been a number of legacy forces, one of  
3           which was Fife Police?

4           A. Yes.

5           Q. You are aware of that?

6           A. Yes, I am aware.

7           Q. We have heard evidence that some officers were brought  
8           in from former legacy Fife Police areas to help with the  
9           investigation. Was that of any concern to PIRC, that  
10          there were Fife -- former Fife police officers helping  
11          in Kirkcaldy with the investigation?

12          A. I was aware that other officers were drafted in to  
13          support their investigation initially. I don't recall  
14          being aware of where they had come from, I don't think  
15          at that stage. Certainly latterly, after that, but I am  
16          not sure about on the date.

17          Q. Is it of any concern to you now, if you take it from me  
18          that there were officers brought in -- former  
19          Fife Police officers brought in from other areas in Fife  
20          to help with the investigation, would that have been any  
21          concern to you at the time?

22          A. Not a huge concern, I think with these things what you  
23          would prefer and what is practical in the circumstances  
24          is -- because there were a lot of resources there,  
25          including our own, so it wouldn't be a major concern to

## Transcript of the Sheku Bayoh Inquiry

- 1           me at that stage.
- 2           Q. So you have said "a huge concern", if they were coming  
3           in from Fife areas --
- 4           A. No, it wouldn't be a --
- 5           Q. It wouldn't be a huge concern?
- 6           A. No.
- 7           Q. Sorry, I misheard you there. Would it have been of any  
8           concern to you about issues of conflict, or would you  
9           not have considered that matter at all?
- 10          A. It would have been difficult to know that. You  
11          would ... the majority of time I would anticipate you  
12          would be reliant on the senior managers in the division  
13          itself to oversee that probably, I know that at  
14          a reasonably every stage they ended up getting  
15          additional resources from the Major Investigation Team  
16          and part of that was their specialist skills but part of  
17          that was that they were not part of the structure in  
18          that local area either.
- 19          Q. Looking at the situation now, as a PIRC investigator  
20          coming in, reliant on Police Scotland resources, would  
21          you have a preference about whether it would be officers  
22          from a totally different area who supported PIRC?
- 23          A. Yes, in an ideal world that would be better and that is  
24          dependent on what you were asking them to do or  
25          directing Police Scotland to do. If it was,

## Transcript of the Sheku Bayoh Inquiry

1           for instance, which we had a lot of, control of the  
2           scenes, then it didn't really matter to my mind where  
3           these officers come from because they are basically just  
4           doing a specific role which, if they were even local  
5           officers, it shouldn't compromise that. If they are  
6           doing a more important, specific role, then that is  
7           probably more of a consideration.

8           Q. Could you help us understand what a more important role  
9           might be?

10          A. For instance, the initial contact with the family  
11          members. Obviously I don't know what went into that as  
12          far as selection of the individual officers who  
13          ultimately interacted with the family at the early days,  
14          but that would be one of them.

15          Q. Given what you have said, would your preference be that  
16          they would come from a separate area outwith Fife?

17          A. I would suggest that would be helpful, but maybe  
18          impractical. That is the balance and the difficulty.

19          Q. The Chair has a statement from a Maurice Rhodes. He,  
20          I understand, was an investigator?

21          A. He was, yes.

22          Q. His statement talks about his experience on 3 May, and  
23          he was asked to comment on some other evidence we have  
24          heard about Pat Campbell, the SIO. Pat Campbell,  
25          I think as you are aware, had described some concerns

## Transcript of the Sheku Bayoh Inquiry

- 1           about PIRC having limited resources?
- 2           A. Yes, I am aware of that.
- 3           Q. You are aware of that as well. I think Pat Campbell in  
4           evidence had talked about he had probably about 20 or 22  
5           resources at one time from Police Scotland, and they  
6           were detective officers involved in the investigations,  
7           but he thought that PIRC turned up with four or five.  
8           I think you have said it was a total of six?
- 9           A. Six, and one elsewhere, yes, seven in total.
- 10          Q. And Casey was in Hamilton Police Office?
- 11          A. Yes.
- 12          Q. So those were Pat Campbell's concerns, and  
13          Maurice Rhodes was asked to comment on that, and he says  
14          in his statement:  
15                 "Pat ..."  
16                 A reference to Pat Campbell:  
17                 "... his opening comment as we walked into the  
18                 office that day was ..."  
19                 In quotation marks:  
20                 "... 'Ah, it's a Strathclyde Police reunion'."  
21                 And that was Pat's opening comment.  
22                 Can you recall Pat Campbell making that comment when  
23                 you arrived?
- 24          A. Definitely not, no.
- 25          Q. Was there a view that day in Kirkcaldy Police Office

## Transcript of the Sheku Bayoh Inquiry

1           that the people who arrived from PIRC to do the  
2           investigation were from Strathclyde Police?  
3       A.   Not to my knowledge.  
4       Q.   Or that --  
5       A.   Most of the Fife officers probably would not know them  
6           anyway so they wouldn't know the origins of their  
7           previous employment, I wouldn't have thought. Obviously  
8           Pat Campbell is from the wider Strathclyde force  
9           previously and a couple of the others that were there,  
10          but the majority were Fife.  
11       Q.   So Pat Campbell had worked in Strathclyde?  
12       A.   Yes.  
13       Q.   And you had worked in Strathclyde?  
14       A.   Yes.  
15       Q.   Who else had worked in Strathclyde at that time that was  
16          there?  
17       A.   The only ones that didn't were Stuart Taylor and  
18          Alex McGuire.  
19       Q.   They are the only officers that hadn't --  
20          investigators -- that didn't --  
21       A.   That didn't work with Strathclyde, yes. Alex McGuire  
22          was an ex-officer but not with Strathclyde force.  
23       Q.   And Taylor had come from outwith the Police Service --  
24       A.   Yes.  
25       Q.   -- you have said that.

## Transcript of the Sheku Bayoh Inquiry

1           Can I ask you some questions about another point,  
2           a separate point, about Richard Casey. You were asked  
3           to comment on this in your Inquiry statement, you had  
4           noted down something about -- involved with David Green,  
5           your involvement, and you had written the words  
6           "Political side - Kay?" Do you remember being asked  
7           about this? No?

8           A. Could you say that again?

9           Q. I will find the passage. Let's look at -- maybe we  
10          could look at your notebook PIRC 04528, page 1. You  
11          will have to help slightly with the handwriting here, if  
12          you don't mind. My understanding is that this says and  
13          please tell me if I am wrong:

14                 "Sunday 3 May 2015 - 10.00 hours.

15                 "Sunday 10 am - DCI Harrower.

16                 "Dave Green~..."

17                 You can see the names there. And then:

18                 "... Instruction?"

19                 And beneath that it says:

20                 "Political side~..."

21                 And then:

22                 "... Kay?"

23           A. Sorry, what time is that against?

24           Q. It says Sunday 3 May 2015 at 10.00 hours. 10 am. That  
25           is what it written there, and then beneath that there is

## Transcript of the Sheku Bayoh Inquiry

1 a reference to 9.35 --

2 A. Right. That is somebody else's notes.

3 Q. Let's leave that to one side if that is not your notes.

4 I think you were asked about this in your Inquiry

5 statement, I don't have the number for it, but if you

6 give me a moment I will be able to find it. I think.

7 You say:

8 "I cannot specifically recall why I noted political

9 side down ..."

10 I think what I will do is I will stop asking

11 questions at this stage and I will find out exactly

12 where this information is from.

13 A. So I have responded to that, that is probably because --

14 Q. I will come back to this.

15 A. I don't know if that is Mr Casey's notes.

16 Q. I will go back to this at a later stage rather than

17 digging a bigger hole for myself here.

18 Can I turn to the -- looking at the actual

19 investigation that was carried out on 3 May, and

20 thinking about issues of adequacy and reasonable

21 promptness, I want to go through some of the events in

22 the afternoon with you.

23 We know the first Gold Group meeting, we have heard

24 evidence about this, it was at 11.30 in the morning in

25 Kirkcaldy Police Office and it was chaired by

## Transcript of the Sheku Bayoh Inquiry

1 ACC Nicholson. We have heard evidence that no one from  
2 PIRC was in attendance at the first Gold Group meeting  
3 in the morning, and I wonder if we can ask you to  
4 explain a little bit more about why nobody from PIRC  
5 went to that meeting?

6 A. I wouldn't have been able to get there in the timescale,  
7 that would have been the main thing. If you look at the  
8 initial time spent on various phone calls and organising  
9 things, speaking with PSDs, speaking with Pat Campbell,  
10 then considering what additional staff we had to call  
11 out, that is taking us to a point where, even taking  
12 travelling distance if there was a potential to go  
13 straight from my residence to there, we would never have  
14 got there for 11.30 anyway.

15 Q. Can you give the Chair an indication of how long it  
16 normally takes to mobilise PIRC and to mobilise a team  
17 to attend an investigation?

18 A. That would be very difficult to estimate because every  
19 circumstance is different. Obviously the big point is  
20 the geographical location of where you are going, if you  
21 have other resources to bring out who are not on call,  
22 they may be harder to get, depending on where they are.  
23 So for instance the two additional investigators  
24 I called out were specifically to carry out senior  
25 management functions. If they are not in the house,



## Transcript of the Sheku Bayoh Inquiry

1           they are doing something with their family, then -- but  
2           they are the only ones you are going to be able to get  
3           then it's going to take longer, so you could never  
4           really estimate how long it would take. There is  
5           an accumulation of factors there that will change the  
6           timescale for a response.

7           Q. So on the particular day in question, 3 May, you have  
8           had your initial call at 9.35 from David Green, you have  
9           had a number of other calls, we have spoken about some  
10          of those today --

11          A. Yes.

12          Q. -- in relation to the investigation. And was there  
13          simply not anyone available to go to Kirkcaldy Police  
14          Office at that stage?

15          A. No, there was -- obviously the on-call team that were  
16          scheduled to be on-call were contacted and notified,  
17          I don't recall whether I got them on the first phone  
18          call or not but within a reasonable timescale I got  
19          a response and organised for them to mobilise and come  
20          out and then got the additional members of staff, the  
21          two, to add to that on-call team as well.

22          Q. Do you as a practice arrive in an office or at  
23          an incident together as a group when you arrive from  
24          PIRC or do you arrive individually, or is there no  
25          preference?

## Transcript of the Sheku Bayoh Inquiry

1       A. There is no real preference. The majority of the times  
2       we would be travelling probably two to a car, so you may  
3       arrive kind of roughly the same time but you may be  
4       diverted to do something en route or you may be required  
5       at another location, so again there is various  
6       permutations of how you would deploy and the reasons  
7       behind that.

8       Q. Are the cars kept at Hamilton, at your offices there?

9       A. At that time I think we had certain ones that the  
10       on-call team had but obviously we had other members of  
11       staff coming out that didn't have cars, so there would  
12       be a requirement to organise additional transportation  
13       that would be sitting at Hamilton stored near the office  
14       and then any other equipment or on-call material to deal  
15       with the likes of taking productions and so on and so  
16       forth.

17       Q. Did anyone consider joining the Gold Group meeting by  
18       phone?

19       A. No, we didn't -- and obviously we didn't have facility,  
20       now we quite regularly join by Teams, which wasn't  
21       an option back then.

22       Q. But is that something you more commonly do now?

23       A. Yes, in fact it's particularly -- if there is  
24       a deployment of staff, maybe a DSI will go out with  
25       a team and one or the other DSIs or

## Transcript of the Sheku Bayoh Inquiry

- 1 a senior investigator will log into the Gold Group  
2 meeting, so~...
- 3 Q. Are there benefits to PIRC being present at all the  
4 Gold Group meetings, especially the first one?
- 5 A. You obviously get -- you would hope you would get more  
6 first-hand information and inputs from other police  
7 managers as opposed to all that information being  
8 channelled through one person. So I would say probably  
9 advantages from that.
- 10 Q. When you say one person, is that the SIO you mean --
- 11 A. Yes.
- 12 Q. -- having the contact with you?
- 13 Tell us, not having been there, how did you then go  
14 about getting information about what was said at that  
15 first Gold Group meeting?
- 16 A. By speaking to Pat Campbell.
- 17 Q. Did you receive copies of minutes at any stage?
- 18 A. Not to my recollection -- I don't think they would have  
19 been -- although they would have been handwritten but  
20 they would later be typed and compiled into a formal  
21 minute, so I didn't see those at those times.
- 22 Q. So were you dependent on Pat Campbell's recollection or  
23 his own notes of the first Gold Group meeting.
- 24 A. Yes, at that stage, yes.
- 25 Q. Do you remember if you were told anything or given

## Transcript of the Sheku Bayoh Inquiry

- 1           an update about family concerns at that time?
- 2       A.   At the Gold Group meeting --
- 3       Q.   In relation to the first Gold Group meeting?
- 4       A.   Obviously I was well aware, I think at the second one,  
5           of the family concerns and what was fed back from the  
6           visits to the house. I am not sure about prior to that.
- 7       Q.   Was there -- do you remember now if there was much  
8           discussion between you and Pat Campbell about what had  
9           been said at the first Gold Group meeting?
- 10      A.   I am sorry I can't recall specifics on that. I am sure  
11         he would have mentioned that but ...
- 12      Q.   All right. You have mentioned in your statement about  
13         there being a briefing in Hamilton at your PIRC office?
- 14      A.   Yes.
- 15      Q.   And that would be just before midday that day?
- 16      A.   Yes.
- 17      Q.   Was that for all the investigators who were going to be  
18         involved in the investigation?
- 19      A.   Yes, and Ricky Casey as well.
- 20      Q.   And Richard Casey. I think you say in your second  
21         statement at paragraph 43 you didn't ask investigators  
22         to attend directly to Kirkcaldy Police Office and that  
23         was the most appropriate response. Can you explain why  
24         you didn't simply ask them all to attend at Kirkcaldy?
- 25      A.   I touched on the equipment and the vehicles and I wanted

## Transcript of the Sheku Bayoh Inquiry

1           to brief them prior to arriving at Kirkcaldy as well  
2           because you never know how that is going to play out,  
3           what could be available to do that, you may never get  
4           the opportunity to actually do it with whatever has  
5           taken place, so you could stand and look at it both ways  
6           that you could have sent somebody immediately or that --  
7           that is what I decided to do on the day.

8           Q.   What equipment was necessary to be picked up or  
9           collected?

10          A.   You have a lot of what we call a production kit, which  
11          is labels, bags, swabs, anything that -- the scene  
12          managers could go into a lot more detail on what type of  
13          material they would take with them.

14          Q.   Do you have a note anywhere of what was said at that  
15          briefing?

16          A.   No.

17          Q.   There's no details of that in your operational notes?

18          A.   No.   That was basically just done as an overview,  
19          a summary of the information that I had been provided  
20          from the three different sources at that stage.

21          Q.   Did you prepare any paperwork in advance of  
22          the briefing --

23          A.   No, not at that stage, no.

24          Q.   -- setting out what you were going to say here?

25          A.   No, that would obviously have taken more time to do that

## Transcript of the Sheku Bayoh Inquiry

1 as well.

2 Q. When you were giving the briefing did you rely on your  
3 operational notes to speak to the other investigators?

4 A. Yes, partly, yes.

5 Q. So the information that was in your operational notes  
6 may have been shared with those other --

7 A. Yes, verbally not physically I wouldn't have thought as  
8 in the notes themselves. But, yes.

9 Q. We have a statement from Alex McGuire who you have  
10 mentioned today, paragraph 20. I won't ask for it to be  
11 put on the screen, but he has noted down:

12 "Upon arrival encountered the suspect who ran  
13 a female officer and attacked her wielding a knife."

14 Again, does that sound similar to the sort of note  
15 you had in your operational notes that were being  
16 shared? So again, it would appear that the story or the  
17 version of the subject being the aggressor seems to have  
18 been shared with all of the investigators from PIRC?

19 A. It wasn't -- it wasn't to convey it, it was just  
20 conveying a summary of the information that I had been  
21 provided. There was no intention to -- you know, to  
22 paint that picture, it was just that was the information  
23 we had.

24 Q. So that information again was shared with the  
25 investigators who were going to be involved?

## Transcript of the Sheku Bayoh Inquiry

- 1 A. Yes, it was.
- 2 Q. And that was Richard Casey who was present, although he  
3 remained in Hamilton --
- 4 A. Yes.
- 5 Q. -- Alex McGuire, Garry Sinclair, John Ferguson,  
6 Stuart Taylor and Maurice Rhodes?
- 7 A. I am sure I conveyed to them at that time what my  
8 initial thoughts were on what they would be deployed to  
9 do, so that was another consideration for them to be  
10 aware of that, before they got there, so they could  
11 focus their minds on how they were going to approach  
12 that depending on what they were faced with when they  
13 arrived.
- 14 Q. What did you say about what they were going to be doing?  
15 This was around midday on 3 May.
- 16 A. Yes, was --
- 17 Q. Was it individual tasks for each of them or was it  
18 a general overview?
- 19 A. It was tasks as pairings for the scene at Hayfield Road  
20 and at the hospital. Basically Alex McGuire was going  
21 to support me, we spoke about the scribe role earlier  
22 on, that was one of the things just to assist me in  
23 retaining any of the information that was being passed  
24 at the various meetings.
- 25 Q. Did you explain to them about the split, the parallel

## Transcript of the Sheku Bayoh Inquiry

- 1 investigation at that time?
- 2 A. I don't think so, no. No.
- 3 Q. What impression did you give those investigators in  
4 relation to the scope of the investigation that was to  
5 be done by PIRC, if you didn't explain the split?
- 6 A. I spoke about the responsibilities for each of those two  
7 locations, but we obviously were going to find out more  
8 of what -- particularly for Hayfield Road, what else  
9 that would involve, and that subsequently there was  
10 other tasks that were added in relation to  
11 Garry Sinclair's role as the scene manager for that  
12 scene, and things that had to be accomplished at the  
13 Kirkcaldy office as well as that scene.
- 14 Q. Did you make it clear to those investigators, when you  
15 were talking about the information that you had received  
16 about the events, that you had not asked and did not  
17 know the source of that information?
- 18 A. I don't think that was something I would have mentioned.
- 19 Q. Did you make it clear to them that you could not provide  
20 any assurances as to the accuracy of that information?
- 21 A. I don't have any recollection of that. That is --  
22 probably not. Unless there was a specific reason, it's  
23 maybe not something I would mention anyway at that  
24 stage.
- 25 Q. Did you encourage them to keep an open mind in relation



## Transcript of the Sheku Bayoh Inquiry

1 to the investigation?

2 A. Very much so, and we would -- as I say, we would always  
3 do that, particularly in, you know, these types of  
4 investigations.

5 Q. These were the -- many of these investigators, we have  
6 heard their names before, some will have taken  
7 statements from the officers early in June, at a later  
8 stage?

9 A. Yes.

10 Q. So some of them will have been involved in the  
11 investigation for a number of weeks at least?

12 A. For a prolonged period, yes.

13 Q. Can you help us understand why Casey,  
14 a senior investigator, did not travel to Kirkcaldy  
15 Police Office with the other investigators?

16 A. That was a decision he made to -- he was going to deal  
17 with the media issues and anything else that would  
18 arise.

19 Q. Because he was a senior investigator that day --

20 A. That is correct.

21 Q. -- wasn't he? There was no one else there in Kirkcaldy  
22 that was of the same seniority as him --

23 A. No.

24 Q. -- on 3 May?

25 A. No.

## Transcript of the Sheku Bayoh Inquiry

- 1 Q. You were a deputy senior investigator?
- 2 A. Yes.
- 3 Q. We've got some other information in a statement that has  
4 been signed and available to the Chair that he --  
5 although he said he would man phones, Irene Scullion may  
6 actually have been manning phones; do you know anything  
7 about that?
- 8 A. I can't remember. I know she was in the office the  
9 following day, I can't honestly recall whether she came  
10 into the office on the Sunday or not. I am not sure,  
11 I know she was made aware of the incident, I am quite  
12 sure of that.
- 13 Q. Would there have been benefit in Ricky Casey travelling  
14 to Kirkcaldy and becoming a sort of seventh investigator  
15 at Kirkcaldy Police Office that day, so visible in  
16 Kirkcaldy? Would there have been some benefit to having  
17 him present?
- 18 A. There may have been.
- 19 Q. Did he have any particular skills that might have been  
20 of use to PIRC that day?
- 21 A. As I mentioned earlier, he was one of the PIM-trained  
22 people, but obviously as far as we were concerned at  
23 that stage it hadn't gone to that level. But he is  
24 a very experienced investigator in his own right.
- 25 Q. If he had been present would that maybe have released

## Transcript of the Sheku Bayoh Inquiry

- 1           someone else from a task to -- to do something in  
2           addition, maybe rely less on Police Scotland?
- 3           A.   Possibly.
- 4           Q.   Do you think an extra pair of hands would have been  
5           helpful to your investigation?
- 6           A.   It will always -- the priorities and tasks that I was  
7           setting was dependent on what we had there and what  
8           Police Scotland resources were considered appropriate  
9           and necessary to undertake those.
- 10          Q.   We have heard that you arrived at Kirkcaldy at half past  
11          one or thereabouts?
- 12          A.   Thereabouts, yes.
- 13          Q.   When you arrived did you make yourselves known  
14          Police Scotland?
- 15          A.   Yes.
- 16          Q.   How did you go about doing that?
- 17          A.   I think I sought out Pat Campbell because he had been  
18          the senior officer that I had been speaking to.
- 19          Q.   Do you remember where Pat Campbell was when you arrived  
20          at Kirkcaldy?
- 21          A.   Not specifically, no.  He was clearly -- for obvious  
22          reasons he was a man in high demand with, you know,  
23          various people constantly seeking direction, so I sort  
24          of spoke to him intermittently at different stages.
- 25          Q.   Where were you when you first spoke to him?

## Transcript of the Sheku Bayoh Inquiry

1           A. We were -- I don't know where -- it is more likely we  
2           were at a very early stage given a small office in the  
3           building somewhere, I don't recall where that was.  
4           I think it was quite close to where Colin Robson was,  
5           I think, so it is -- maybe it was part of the CID  
6           corridor at the time. I am not sure. But I think it  
7           was either there or somewhere close to there, and then  
8           at some stage I think in some sort of meeting room we  
9           had the handover that you described.

10          Q. Did you remain in or around that office?

11          A. Yes.

12          Q. You didn't spread out in the police station?

13          A. No, until the rest of the team were sent out to carry  
14          out their various tasks because I am sure the forensic  
15          strategy meeting that we had with Stuart Houston was  
16          I am sure in the same office as well later on.

17          Q. So how long did you remain in that office that day,  
18          initially at least?

19          A. For a fair period on and off. I was back and forward  
20          and then obviously in attendance at the Gold Group  
21          meetings which I think were in a bigger room upstairs,  
22          I think.

23          Q. Apart from the forensic strategy meeting and the  
24          Gold Group meetings, did you remain largely in the  
25          office apart from that or were you elsewhere as well?

## Transcript of the Sheku Bayoh Inquiry

1           A. I was elsewhere at times but I spent a fair bit of time  
2           in there and was on the computer, and was writing up  
3           stuff as well, you are aware that the briefing document  
4           that was concluded, I did parts of that while I was  
5           there.

6           Q. We will come on to that. I think in your statement you  
7           talk about tasking the investigators to manage the  
8           hospital, Victoria Hospital?

9           A. Yes.

10          Q. And Hayfield Road?

11          A. Yes.

12          Q. And that was in conjunction with the Police Scotland  
13          scene manager, DCI Stuart Houston?

14          A. Yes, he was the co-ordinator for all the Police Scotland  
15          scene managers.

16          Q. When did you task officers in relation to the hospital?

17          A. Our investigators were going -- were aware they were  
18          going to be dealing with that from Hamilton.

19          Q. From the briefing?

20          A. Yes, from the briefing originally and then that was  
21          reinforced at different stages, particularly following  
22          the forensic strategy meeting and how the deceased was  
23          going to be dealt with and how we would approach that.

24          Q. We have heard about a forensic strategy meeting in the  
25          afternoon. I may be incorrect in my recollection but it

## Transcript of the Sheku Bayoh Inquiry

1           was roughly around 4 o'clock or something like that?

2           Someone will correct me if I am totally wrong on that.

3           Was it after that forensic strategy meeting in any event  
4           that the officers were told to deal with the hospital --

5           A. Yes.

6           Q. -- and Hayfield Road?

7           A. Yes.

8           Q. Was there any reason you waited for the forensic  
9           strategy meeting to take place first?

10          A. Because it is important to plan out these things, you  
11          only get one opportunity, I think we had to get an input  
12          from the Police Scotland scene management side because  
13          they had -- particularly with -- well, both locations  
14          but particularly Hayfield Road, you are aware there was  
15          a lot went on at that scene from the first stages and  
16          items were recovered etc, so Garry Sinclair, who was  
17          taking the lead at that location, it was important that  
18          he was aware of everything that had gone before,  
19          particularly from the scene managers, and then taking  
20          that forward how we were going to implement and finish  
21          off that process.

22                 So there is a lot involved in doing that, and  
23          getting it right. Because it might sound funny that  
24          there is no hurry but these scenes are locked down, that  
25          is the purpose of maintaining the Police Scotland

## Transcript of the Sheku Bayoh Inquiry

1           officers there to secure that, so that gives you the  
2           time to prepare properly, and have a plan of action, and  
3           how you are actually going to deal with that.

4           Q. Then what were your expectations -- after you have had  
5           the strategy meeting what were your expectations in  
6           relation to the officers going to these scenes, to  
7           Hayfield Road and to Victoria Hospital; how long would  
8           that take them?

9           A. After they left? A considerable period of time.

10          Q. Why would that --

11          A. A long period because there was a lot to do. Plus  
12          Garry Sinclair, who was responsible at Hayfield Road,  
13          was delegated to deal, to oversee the equipment from the  
14          officers, we saw the importance of the PAVA canisters  
15          etc, and part of that strategy meeting was an insistence  
16          that these were weighed properly to give us an idea on  
17          how much of that substance had been discharged during  
18          the incident. That wasn't initially a consideration, as  
19          far as I was aware, from the Police Scotland side.

20                 So there was a lot more from actually the physical  
21          Hayfield Road scene itself but what was to be  
22          accomplished at the office, and then there was obviously  
23          other enquiries ongoing as regards house-to-house, which  
24          I had discussed with Pat Campbell, and a decision made  
25          to let that run as it was at that time to make sure that

## Transcript of the Sheku Bayoh Inquiry

1           we could identify any significant witnesses, that there  
2           was a requirement to again establish the facts of any  
3           independent witnesses in the absence of the police  
4           accounts at the beginning.

5           Q. Of the investigators you tasked with going to  
6           Victoria Hospital, what was the strategy that was agreed  
7           at the meeting in relation to that?

8           A. It was various things discussed as regards what -- how  
9           the recovery would take place, if any samples were to be  
10          taken prior to leaving the hospital, getting the body to  
11          the hospital in the manner -- and how that was going to  
12          be done. So these things, they all take a long time to  
13          achieve properly.

14          Q. What were your expectations of the officers tasked with  
15          dealing with the hospital about how long after the  
16          forensic strategy meeting it would take them to get to  
17          the hospital?

18          A. I am fairly -- I think it was fairly soon thereafter.  
19          I don't have exact times for that.

20          Q. Looking back now, do you think -- because the Chair  
21          would like perhaps to make recommendations in the  
22          future, do you think there's ways that the response time  
23          of the investigators could be improved in terms of, we  
24          have heard the incident happened and Mr Bayoh had been  
25          taken by ambulance roughly around half past seven in the



## Transcript of the Sheku Bayoh Inquiry

1           mornings, you've had a call at 9.35 from David Green,  
2           life is pronounced extinct in relation to Mr Bayoh at  
3           09.04, and you don't arrive to Kirkcaldy until 1.30. Do  
4           you think there is a way that that process could be made  
5           more efficient, speeded up, faster? Is there anything  
6           that could be done to help speed that up?

7           A. I think there could be. And, as I say, now the approach  
8           would be slightly difference, we spoke about the initial  
9           Gold Group meeting, which would facilitate that early  
10          communication on a lot of these things that we have  
11          discussed and that would be done -- we would have had  
12          somebody at least on Teams now logging in to that  
13          meeting, so that dialogue would take place so it would  
14          be clearer to Police Scotland what was actually  
15          happening. We obviously have a lot more staff now,  
16          significantly more staff than --

17          Q. How many?

18          A. -- we did then. I think we had total of about 25 at  
19          that time. We've now got in excess of 60. So arguably  
20          the availability of individuals and the skilled  
21          personnel that you need for these incidents would -- may  
22          be more readily available, although the on-call teams  
23          are pretty much the same. It's the same numbers, and  
24          then if you have to outsource further to try and get our  
25          own skilled personnel then that would be subject to

## Transcript of the Sheku Bayoh Inquiry

- 1           being able to contact them and call them out.
- 2           Q. Can you see any way of minimising or reducing the period  
3           of time between PIRC getting the call to become involved  
4           and do an investigation and actually getting people on  
5           site?
- 6           A. The approach now, and it has been for a few years, is  
7           completely different, because any incident like this  
8           would fall into a formal post-incident process. So you  
9           would have the list that you ran over from that previous  
10          document of, you know, the senior investigators, the  
11          deputy senior investigators; they would all be involved  
12          in this very quickly. If we couldn't get to the  
13          post-incident process, again we would remotely go into  
14          that so that that process would start, we would have the  
15          checklist of things in relation to the conferring and  
16          the recovering of relevant material, including basic  
17          facts and initial accounts, so that is a process that is  
18          done very, very regularly now, and works very well.
- 19          Q. Let's just take a moment and look at this. The  
20          document we looked at this morning, PIRC 04438. It's  
21          the final page of that document. It says:
- 22                 "Minimum deployment of PIRC personnel."
- 23                 Are you saying that nowadays that would be the  
24          minimum deployment?
- 25          A. Yes, so you would have at least two going to the

## Transcript of the Sheku Bayoh Inquiry

1 post-incident process, you would have the PIM-aware  
2 investigator included within that, so -- and the ability  
3 to take productions, etc, through that process. You  
4 then have a PIRC manager who would be involved in charge  
5 of the scene or scenes, with appropriate staff. If you  
6 had a number of scenes, then there would be more staff  
7 there to deal with those and they would link in with  
8 Police Scotland at the appropriate level.

9 Q. But in May of 2015 obviously we can see that there's --  
10 at the scene there are five individuals envisaged  
11 there --

12 A. Yes.

13 Q. -- as a minimum deployment, and for PIM suite there is  
14 four, so that is a total of nine envisaged as a minimum  
15 deployment --

16 A. Yes.

17 Q. -- in this document. And we know that you had six.

18 A. Yes.

19 Q. When you arrived with six investigators in Kirkcaldy  
20 in May 2015 did you already feel you were perhaps not  
21 meeting the minimum deployment that is envisaged?

22 A. But that again is in relation to the firearms  
23 discharge-type scenario. The post-incident process was  
24 something that didn't occur that often at all at that  
25 stage. I think from the stuff I have heard even

## Transcript of the Sheku Bayoh Inquiry

1           Police Scotland knowledge, even at a senior level, was  
2           very limited on how that process worked. If this had  
3           been determined as a full post-incident process then  
4           potentially the resourcing levels would have been  
5           different to facilitate that.

6           Q. If we go back to page 1 and we see that firearms include  
7           the discharge of CS gas, if you keep going down page 1,  
8           we will see the four bullet points and the final one is,  
9           "Discharge of CS gas". So on the face of it, it would  
10          appear that where there has been a discharge of gas the  
11          minimum deployment is those nine individuals.

12          A. I don't assess it as that. I don't agree with that.  
13          I think in the first paragraph we will see that it's --  
14          the wording of it is a fatal --

15          Q. We can go to the top, there is firearms mentioned and  
16          that is the definition of firearms?

17          A. Because of the legislation the discharge of PAVA or  
18          CS spray is classified in that manner. However, we get  
19          hundreds of these referrals every year to deal with as  
20          a single entity after -- so that is classified as being  
21          discharged but it is not at that level. To my mind this  
22          is directed towards, you know, a lethal barrelled weapon  
23          being discharged and potentially somebody being fatally  
24          shot.

25          Q. So in May of 2015 your impression was that this document

## Transcript of the Sheku Bayoh Inquiry

1           didn't really have any bearing on the situation you were  
2           in?

3           A. It was designed, as it says in the heading, for  
4           following police use of firearms and I know what you are  
5           saying about during this incident PAVA was discharged  
6           but to my mind that is not what that is intended for.  
7           This -- that is the kind of highest level and now all  
8           death investigations -- most of them will involve that  
9           process now because the whole process was changed and  
10          where a post-incident process would be implemented in  
11          response to that, but that was some of the significant  
12          changes after the incident in 2015.

13          Q. So nowadays it is quite clear that it would be  
14          applicable to any death investigation, not just one  
15          involving a firearm or --

16          A. Not any death investigation, but certainly a death in  
17          custody would definitely be. Death following police  
18          contact would be slightly different where it's -- you  
19          know, it's removed from direct interaction with the  
20          officers, when the death occurs.

21          Q. Can I ask you about the officers arriving at  
22          Victoria Hospital. So we have heard evidence that they  
23          didn't arrive until nearer 7 o'clock in the evening and  
24          I'm wondering if you have any concerns about the length  
25          of time that it took PIRC officers to actually get to

## Transcript of the Sheku Bayoh Inquiry

- 1 Victoria Hospital?
- 2 A. I think after the strategy meeting, you know, they would  
3 be further engaged with the Police Scotland scene  
4 managers that had the initial responsibility for those  
5 two scenes, so there was probably a lot to achieve after  
6 that. As I say, I have said already, these -- both of  
7 these locations were secured, they were stood by, by  
8 police officers, and had been since 7 o'clock in the  
9 morning. So that position shouldn't have changed. So  
10 yes, would it have been better if it had been earlier?  
11 Absolutely. But it should be the same, what they are  
12 faced with when they arrive, whether it's two hours  
13 later, so ...
- 14 Q. Did you have any concerns at that time about  
15 preservation of evidence and a delay in getting PIRC  
16 there having an impact on maybe not being able to  
17 preserve the best evidence?
- 18 A. For the same reasons, no. I would be happy that these  
19 locations were secured, had been for, you know, two or  
20 three hours before we were even made aware and then  
21 subsequently over that period.
- 22 Q. Did you later become aware that when PIRC arrived at the  
23 hospital they realised that the police officers had been  
24 sitting in a room with Mr Bayoh's body without forensic  
25 clothing?

## Transcript of the Sheku Bayoh Inquiry

1       A. I don't think I was aware of that. I heard that through  
2       the Inquiry itself.

3       Q. Did you become aware at any stage about issues to do  
4       with samples and bags perhaps lying open, anything like  
5       that?

6       A. I don't recall that, no.

7       Q. Again, thinking to the future, is there a way that you  
8       could see that the response time could be improved?  
9       Obviously Mr Bayoh was pronounced life extinct at 09.04,  
10      PIRC didn't arrive at the hospital until 7 o'clock that  
11      evening. Is there a way that that period could be  
12      reduced?

13      A. It probably could.

14      Q. Any suggestions that you could make?

15      A. It depends -- as I say, I decided to have that briefing  
16      at Hamilton. Could it have been different where we  
17      identified -- well, we did identify who the scene  
18      manager was going to be, that they were deployed  
19      directly to that with contact details for the respective  
20      scene managers, but then we are still in a position --  
21      there are so many different scenes being managed that we  
22      would still want to have that forensic strategy meeting  
23      with all the relevant people involved in that, before we  
24      actually went to do that recovery work. So I see the  
25      perception as regards time delays but it is more

## Transcript of the Sheku Bayoh Inquiry

1           important to get the approach correct and then carry out  
2           that properly.

3           Q. In terms of looking at ways that the process could be  
4           made more efficient, quicker, can you think of anything  
5           that would be able to speed things up?

6           A. You are still dealing with an on-call situation. It's  
7           the availability of people, the on-call staff, again  
8           they are not all sitting in the house ready to respond  
9           to the phone sometimes. You know, they will respond but  
10          they may be somewhere else, so there is an awful lot of  
11          different factors which will affect that time delay.  
12          But that is for us to manage, and make it as effective  
13          as possible.

14          Q. Obviously once the investigators arrived at Kirkcaldy at  
15          1.30, and didn't arrive to the hospital until seven, can  
16          you see in that window an opportunity for making the  
17          process faster? Obviously they are in Kirkcaldy by  
18          then, there is no issues about them journeying from  
19          home; can you think of any efficiencies?

20          A. It is hard to comment without knowing all the factors in  
21          relation to that, the scene managers are given a very  
22          significant responsibility because they have expertise  
23          in what they are doing, their expertise is much better than  
24          mine in relation to that specific task. So if they see  
25          fit to say have that further dialogue and preparation



## Transcript of the Sheku Bayoh Inquiry

1           and planning to make that recovery at either scene as  
2           professional and thorough as possible, without any  
3           outside interference, then we just have to accept that.  
4           But there will always be ways of improving timescales  
5           around things and that would maybe normally involve more  
6           resources as well.

7           Q.   So you think perhaps more resources, if you had had them  
8           that day, might have helped speed up the process?

9           A.   Might have done, yes.

10          MS GRAHAME:  I am conscious of the time.  We often have  
11          a break for the stenographer.

12          LORD BRACADALE:  We will take a 15-minute break now.

13          (3.00 pm)

14                                  (A short break)

15          (3.15 pm)

16          LORD BRACADALE:  Ms Grahame.

17          MS GRAHAME:  Thank you.  Just before the break you talked  
18          about how the resources have -- you think additional  
19          resources on 3 May may have made things faster.  
20          Response time.  You have also talked about you had  
21          25 staff at the time in PIRC.  You now have about 60  
22          I think you said.

23          A.   Just over, yes.

24          Q.   Do you know why you have increased resources?  Was it  
25          something to do with workload or was it something to do

## Transcript of the Sheku Bayoh Inquiry

1           with a recognition that PIRC needed more resources to  
2           perhaps be more efficient?

3           A.   Mainly to do with workload, I think.  There has been  
4           a significant increase over the previous few years,  
5           which has been identified I think and then appropriate  
6           funding was sought to increase the workload, and  
7           a change of type of work that we have which has  
8           increased that quite significantly.

9           Q.   So in any individual investigation would it be similar  
10          numbers today that are deployed to deal with that  
11          investigation?  If the situation on 3 May 2015 happened  
12          now, would more officers be sent or the same numbers?

13          A.   I would say more, because we would initially have to  
14          resource the post-incident process.  So that in itself  
15          would be a prerequisite to supplement the on-call staff  
16          with additional resources and then assess what else was  
17          required or would be perceived as required for that part  
18          of that initial response.  So the chances are it would  
19          be a lot more.

20          Q.   When you say "a lot more", if it happened today how many  
21          investigators were PIRC would go to the police office?

22          A.   It would depend a lot -- as we said, we spoke about  
23          the post-incident process in isolation itself.  We have  
24          instances where we have more than one, so we have to  
25          send the numbers that were on that documentation that we

## Transcript of the Sheku Bayoh Inquiry

1           looked at to each of those and then, if we have more  
2           than one scene or locus, then likewise we would need to  
3           resource that with supervisors and with appropriately  
4           skilled staff, and any other -- as I say, any other  
5           requirements we thought we would have for that.

6           LORD BRACADALE: I think the realtime transcription is not  
7           working but I think we will just carry on and the  
8           stenographer can catch up, and we will see how it  
9           develops.

10          MS GRAHAME: Thank you. So if you were appointed as lead  
11          investigator today in a similar situation, can you help  
12          the Chair by giving him some understanding of the number  
13          of PIRC investigators that would be sent in a similar  
14          situation today, assuming there was a post-incident  
15          procedure in place?

16          A. There would be. If it was a significant critical  
17          incident, then there would be a post-incident process.  
18          So you would have -- at least two would go to carry out  
19          the process within the post-incident procedure. As  
20          I say, we would potentially have three or four would go  
21          to each location. A senior investigator would be in  
22          charge of overseeing these scenes and linking in with  
23          the Police Scotland as well. You may have parallel  
24          criminal investigations ongoing. It may be part of  
25          an ongoing crime in action where somebody has been shot

## Transcript of the Sheku Bayoh Inquiry

1           for instance, but there is still police involvement in  
2           that but there is a role for us to investigate that  
3           shooting as well. So there are various permutations  
4           where the level and number of resources could increase,  
5           just depending on what it is and what we are faced with.

6           Q. So in a situation like existed on 3 May 2015, where  
7           a man has been restrained by the police, there are nine  
8           attending officers who have been involved as witnesses,  
9           there is the scene where it happened, Hayfield Road.  
10          There is the hospital where the body remains,  
11          Victoria Hospital. How many PIRC investigators would be  
12          sent -- to Hayfield Road for example, let's start with  
13          Hayfield Road?

14          A. Again, it would depend on that and location what -- the  
15          perceived level of involvement, what enquiries may be  
16          coming from that.

17          LORD BRACADALE: Mr Harrower, I think you are being asked to  
18          look at the situation as it was on 3 May 2015, and  
19          indicate what resources would be sent to the same  
20          situation, or a similar situation, today.

21          MS GRAHAME: Thank you.

22          A. I think you potentially have two senior investigators,  
23          one to oversee the post-incident process, one to link  
24          between the two scenes. You would have scene managers  
25          for each plus another investigator. You would I think

## Transcript of the Sheku Bayoh Inquiry

1           at least have another couple looking at other parts of  
2           the investigation. It may be that you would potentially  
3           start the house-to-house enquiry as we did, but  
4           Police Scotland were doing that on our behalf but we may  
5           decide depending on the circumstances to initiate that  
6           ourselves. Obviously we would have the question of the  
7           family liaison officers, whether they were deployed at  
8           that time or they were initially deployed by  
9           Police Scotland with a follow-up. That would be another  
10          consideration at that stage as well.

11         Q. So I don't have the benefit of the transcript, but you  
12          spoke about perhaps having two senior investigators  
13          engaged with --

14         A. Potentially. You know, a very critical incident.

15         Q. You said "and with the investigators", would that be  
16          each senior investigator would have a further  
17          investigator to assist?

18         A. Yes.

19         Q. And would there also be a scribe for each  
20          senior investigator?

21         A. There would probably be a scribe with each of them, then  
22          you would have your two investigators that are dealing  
23          with the scene, so it might be two senior investigators  
24          or certainly an experienced senior investigator with  
25          AN Other for each of those scenes well.

## Transcript of the Sheku Bayoh Inquiry

- 1 Q. Would there be production officers or investigators  
2 appointed to the role of production officer --
- 3 A. Possibly --
- 4 Q. -- at each scene?
- 5 A. -- but the way that worked during this was that they  
6 would deal with the productions for their own scene  
7 potentially but if there was perceived there was going  
8 to be a lot involved in it, you may have separate  
9 production officers out as a separate resource.
- 10 Q. We have heard reference to the scene manager, like  
11 a PIRC scene manager, would that be in addition to these  
12 investigators?
- 13 A. No.
- 14 Q. They would take on that role?
- 15 A. Yes, the scene managers are investigators who have that  
16 specific skill base.
- 17 Q. You may initiate house-to-house, would that involve two  
18 investigators?
- 19 A. To do a house-to-house properly, I think we follow --  
20 I don't know how many PIRC investigators are involved in  
21 that. I think that started the following day, there  
22 would be a lot more than two. There would be  
23 a significant number involved in that.
- 24 Q. You mention FLOs, how many investigators would take on  
25 the role of FLO?

## Transcript of the Sheku Bayoh Inquiry

1 A. Two.

2 Q. So there would be two FLOs as well?

3 A. Yes.

4 Q. Anyone else that I have missed out?

5 A. I don't think so.

6 Q. So there could be a significantly large number if PIRC  
7 were to take over. If the investigation by PIRC now  
8 involved the events leading up to Mr Bayoh's arrival at  
9 Hayfield Road, would there be additional investigators  
10 appointed to deal with other scenes and other parts of  
11 the investigation?

12 A. I don't think in the circumstances still PIRC would be  
13 able to do that exclusively, I don't think, in those  
14 early stages, and particularly where houses were being  
15 locked down etc, as I am aware. So they would have to  
16 have the assistance of Police Scotland to do that.

17 Q. So that type of part of the investigation would still  
18 have to -- you would have to rely on the support of  
19 Police Scotland --

20 A. The support, yes.

21 Q. -- officers? Thank you.

22 We were talking about the arrival of PIRC at various  
23 locations. I would like to talk about the arrival of  
24 PIRC investigators at the scene at Hayfield Road on  
25 3 May 2015. Now, they arrived at 7.20 in the evening,

## Transcript of the Sheku Bayoh Inquiry

1           so effectively 12 hours after the police first arrived  
2           at Hayfield Road on the Sunday morning.

3           Looking at that period of 12 hours, you have talked  
4           about the police had the scene, they had Hayfield Road,  
5           we have heard evidence from officers about the police  
6           taking control and if I can say setting up cordons, but  
7           making sure that the area was kept free of members of  
8           the public. Do you have any concerns about that period  
9           being -- before PIRC get there being as long as  
10          12 hours? Say for example in relation to forensic  
11          recovery of items from the scene, are you concerned  
12          about that?

13         A. I think my answer would be very similar to -- in  
14          relation to Victoria Hospital, where I am greatly  
15          reliant on the scene managers and their expertise, and  
16          the preparations that they need to make to do  
17          a professional job of recovering any available evidence  
18          that is at the scene. If they could have been there any  
19          earlier, in my view they would have been there.

20         Q. Are you concerned at all about the perception of  
21          officers in uniform at the scene, so from the public  
22          point of view, although PIRC are supposed to be  
23          independent and taking charge of the investigation, at  
24          the actual scene itself the public see officers in  
25          uniform, Police Scotland officers, not PIRC



## Transcript of the Sheku Bayoh Inquiry

1           investigators. Do you think that causes concern  
2           generally?

3           A. I can understand potentially to some degree the adverse  
4           perception of that, but it doesn't cause me concern as  
5           such because to control these scenes in the main  
6           requires police support because there is an abundance of  
7           issues that PIRC investigators wouldn't be able to deal  
8           with that may arise with people trying to cross that  
9           scene and then whatever action would have to be taken as  
10          a result of that, so~... And, as we discussed, the  
11          powers of constable that our investigators have which  
12          doesn't include members of the public, so we would then  
13          have to seek assistance of Police Scotland then and it  
14          may be too late that something has actually happened and  
15          the scene has been breached.

16          Q. I asked you before about thinking of ways that  
17          efficiencies or time savings could be made and I am  
18          wondering if, looking at that situation now, you have  
19          told us that you arrived at Kirkcaldy with the  
20          investigators at 1.30, you had given them a briefing in  
21          advance of that and told them what they were going to be  
22          doing, so officers had been allocated to attend  
23          Hayfield Road. But the officers didn't actually arrive  
24          until 7.20 in the evening. Looking at that response  
25          time now, do you think there are ways that that could

## Transcript of the Sheku Bayoh Inquiry

1           have been quicker, that they could have got there  
2           sooner?

3           A. There is one thing I didn't mention as far as  
4           Hayfield Road is Garry Sinclair, the scene manager who  
5           was tasked to control that, also his role extended to  
6           various tasks at Kirkcaldy. So I think -- maybe  
7           double-check his statement, but I think he had to deal  
8           with the recovery of the police safety equipment,  
9           uniforms etc. Now that was initially -- I was told in  
10          the morning that was ongoing before I got there but that  
11          transpired not to be the case, so I think him and  
12          Maurice Rhodes, I think it was, were involved in that  
13          for probably a significant period before they ultimately  
14          linked in with the scene managers at Hayfield Road  
15          itself, so that might have answered part of that.

16                 So the further answer to your question then may have  
17          been resource-wise that, you know, if there had been  
18          another pairing available that could have dealt with  
19          everything at the office which would have released them  
20          earlier to go to that.

21          Q. So another pairing, extra investigators --

22          A. Could have dealt with the various tasks at Kirkcaldy  
23          Police Station.

24          Q. So if there had been another pair of hands, or another  
25          body, you could have allocated roles separately?

## Transcript of the Sheku Bayoh Inquiry

- 1 A. Yes.
- 2 Q. Just to ask you about the recovery of clothing or  
3 equipment from the officers, when did you become aware  
4 that the officers had returned to Kirkcaldy Police  
5 Office?
- 6 A. I would think the first discussion I had with  
7 Pat Campbell, I think. I don't think -- certainly  
8 I don't think it came up in conversation with PSDs, so  
9 it would be shortly after with Pat Campbell.
- 10 Q. Did you know they were in the canteen?
- 11 A. Not at that stage, I don't think. I assumed they were  
12 at the office.
- 13 Q. When did you become aware they were at the canteen?
- 14 A. Later in the day. I can't be specific with times.  
15 I think it was after we arrived at the office, I think.
- 16 Q. After 1.30?
- 17 A. Yes.
- 18 Q. Was it after a Gold Group meeting or was it after some  
19 other event?
- 20 A. Honestly, I am not sure. I can't remember.
- 21 Q. You said you were under the impression earlier that the  
22 equipment was going to be recovered?
- 23 A. Yes, much earlier, yes.
- 24 Q. What time?
- 25 A. I think it is mentioned in my notes, it's possibly the

## Transcript of the Sheku Bayoh Inquiry

1 first conversation that I had with Pat Campbell, that  
2 that was -- the inference was that was ongoing at that  
3 time, which was the back of 10 o'clock.

4 Q. What were your expectations then about what would be  
5 happening with the officers' clothing and their  
6 equipment; what were you expecting to happen?

7 A. From what I was told, that would have been all secured,  
8 packaged, and be retained.

9 Q. When you say secured, what do you mean?

10 A. Sealed in bags. Following the appropriate processes for  
11 recovery of --

12 Q. We have seen some of these brown bags with a clear strip  
13 that are sealed, forensic, that type of thing.

14 A. Yes, similar to that, and identification of who has  
15 taken it and what it is and who it belongs to.

16 Q. Thank you. And "retained", what do you mean by  
17 "retained"?

18 A. It would be kept and passed to us.

19 Q. In terms of ensuring the forensic integrity or  
20 recovering evidence in a forensically secure way, is  
21 that the type of thing you would be expecting to be done  
22 with equipment?

23 A. Yes.

24 Q. And clothing?

25 A. Yes.

## Transcript of the Sheku Bayoh Inquiry

1 Q. We have heard evidence that when the officers returned  
2 to Kirkcaldy, that clothing, vests, equipment, was left  
3 out in the canteen?

4 A. I am aware of that, yes.

5 Q. You are aware of that from the Inquiry, are you?

6 A. Yes.

7 Q. If you are aware of that, do you have concerns about  
8 that?

9 A. Yes.

10 Q. Can you tell us about those concerns?

11 A. Obviously the preference that these were -- again, that  
12 is something that we would have covered in the  
13 post-incident process, if it was seen as a requirement  
14 or necessity to take that, that that would have been  
15 dealt with in a much more forensic fashion at an early  
16 stage. But from what I have seen that didn't occur at  
17 that stage.

18 As I say, Garry Sinclair and his colleague were  
19 involved, I think -- I don't know what stage it was at  
20 as regards when he got involved in the recovery of that,  
21 but it obviously hadn't happened on the timescale that  
22 had been initially intimated to me. So the fact that --  
23 you know, if that was as reported, lying about  
24 the canteen in different places and it wasn't -- that  
25 was not ideal, not good.

## Transcript of the Sheku Bayoh Inquiry

1 Q. Did you become aware at a later time in that day, during  
2 the day, that there had not been recovery of the  
3 clothing and equipment in relation to the officers?

4 A. I think when I fully became aware that it hadn't been  
5 done I think was possibly at the beginning of the  
6 forensic strategy meeting. It may have -- that is my  
7 recollection and then that is when Garry was re-directed  
8 to -- once we concluded that, to bring that -- oversee  
9 that process, and the additional instruction in relation  
10 to the PAVA spray canisters as well.

11 Q. At that point, either during or after the forensic  
12 strategy meeting, what was your expectation in terms of  
13 recovery at that time?

14 A. If the recovery had commenced, that it was completed  
15 fully overseen by the PIRC staff.

16 Q. Were you aware at that time that there was an allegation  
17 that the female police officer, Nicole Short, one of  
18 the officers who was at the scene, had been injured?

19 A. Yes, because I had requested that an apparent injury was  
20 photographed, I think that was during that meeting as  
21 well.

22 Q. Was that the forensic strategy meeting?

23 A. Yes.

24 Q. Now, the briefing note that we will come to that you had  
25 prepared that day makes the comment that one of

## Transcript of the Sheku Bayoh Inquiry

1           the female officers was apparently kicked in the back  
2           and also sustained a blow to the back of the head?

3       A.   Yes.

4       Q.   You asked for the injuries to be photographed, but in  
5           respect of the head injury. I am wondering was there --  
6           were you taking a view that there were no injuries  
7           because of a kick to the back, or ...?

8       A.   No, I think there is reference as well to medical  
9           examinations of the officers, I think.

10      Q.   Yes, we have heard evidence about that.

11      A.   Yes.

12      Q.   So what were you looking for in terms of preserving  
13           evidence, and asking for photographs?

14      A.   It was to photograph the apparent injuries at that time  
15           and then that would probably be done again if it was the  
16           likes of a bruising or anything that --

17      Q.   We have heard evidence that --

18      A.   -- came in as a result --

19      Q.   -- bruising can develop over a period of time?

20      A.   Yes, so it would be a period later to be specified  
21           and when that would be done again to capture that as  
22           well.

23      Q.   So was it part of your instruction only to take  
24           photographs of head injuries or was it just to take  
25           photographs of any injuries?

## Transcript of the Sheku Bayoh Inquiry

- 1 A. Injuries.
- 2 Q. Any injuries?
- 3 A. Yes.
- 4 Q. Not restricted to head?
- 5 A. I don't think so.
- 6 Q. Was any discussion -- did you get involved in any  
7 discussion at the forensic strategy meeting about  
8 recovery of the vest that Nicole Short was wearing, the  
9 police vest?
- 10 A. I don't think that specifically but obviously everything  
11 was being recovered including that, was my ...
- 12 Q. Was there any discussion at that time about doing any  
13 sort of forensic comparison between the vest and the  
14 footwear of Mr Bayoh?
- 15 A. Not at that time, no.
- 16 Q. If there had been any marks on the vest that you were  
17 aware of, would you have been instructing comparisons to  
18 be carried out?
- 19 A. Not at that time. But it would be done, yes,  
20 definitely.
- 21 Q. I think in your Inquiry statement you say that you did  
22 not have any contact with the police officers in the  
23 canteen that day?
- 24 A. That's correct.
- 25 Q. As part of your role as lead investigator would you have



## Transcript of the Sheku Bayoh Inquiry

1           expected to have contact with the officers?

2           A. No, not then. But now very much so, yes.

3           Q. Tell us what you do now?

4           A. Again, as far as -- part of the post-incident process

5           that certainly if I was involved in that, which I have

6           been on a few occasions, after introduction to the

7           post-incident manager we would -- or I would get an

8           introduction to the officers or police staff, I would

9           identify who I am, outline the role of the PIRC, if they

10          were unaware of it, and make them aware of their status

11          at that particular time.

12          Q. Did anyone from PIRC go to the canteen to speak with any

13          of the officers?

14          A. No.

15          Q. On reflection, now obviously the practice has changed,

16          do you think there's advantages to the change in that

17          practice which you didn't have in 2015?

18          A. Very much so, yes.

19          Q. Tell us --

20          A. A huge improvement.

21          Q. Huge. Tell us why you consider that a huge improvement?

22          A. Because it is all about communication. I think we maybe

23          don't have proper consideration, somebody that has never

24          been involved with our organisation before, there are

25          still officers that have very little awareness of what

## Transcript of the Sheku Bayoh Inquiry

1           we do, the types of investigations we do, why we do  
2           them, and what the outcome of these are, so it is really  
3           a good practice to do that introduction, make them aware  
4           of what their personal situation is and the fact there  
5           is going to be a wider investigation. If I had done  
6           that on the day~... I probably maybe now I wish I did,  
7           but~...

8           LORD BRACADALE: Can you explain to me why you didn't do  
9           that?

10          A. At that time, sir, most -- or in fact all of the  
11          communications with officers in relation to our  
12          investigations were done through police senior managers,  
13          that was the practice at that time. But, as I say, that  
14          has change wholesale now.

15          LORD BRACADALE: But what was the rationale for that? I am  
16          trying to understand why that was done.

17          A. I don't think I can give you a full answer to that.  
18          That was -- that was the way it was done at the time.  
19          And as I say, even in relation to requests for witness  
20          statements, that was done through senior management as  
21          well. But the difference was, with the post-incident  
22          processes, it was different in relation to the firearms.

23          LORD BRACADALE: Apart from that practice, was there  
24          anything to prevent you going into the canteen, telling  
25          them who you were, telling them you are in charge, and

## Transcript of the Sheku Bayoh Inquiry

1 taking it from there?

2 A. No, I offered to do it but I then -- I didn't pursue  
3 that later, and maybe on reflection that could have been  
4 done.

5 LORD BRACADALE: Perhaps Ms Grahame could take that on as to  
6 whom you offered that to and so forth.

7 MS GRAHAME: In terms of -- you've said you offered to speak  
8 to the officers.

9 A. Yes.

10 Q. Do you remember when that was?

11 A. Yes, it was after -- I think it was the back of  
12 3 o'clock, after Pat Campbell had come back to me and  
13 said that the officers, on legal advice from the -- that  
14 had come through the Federation, that they weren't going  
15 to provide statements at that stage. I said I would go  
16 and speak to them, clarify their status and see if that  
17 made any difference.

18 Q. So that would be after the second Gold Group meeting,  
19 the one you attended at 2.40?

20 A. Yes.

21 Q. What was Pat Campbell's response to that suggestion by  
22 you?

23 A. I can't remember a verbal response but I took it at that  
24 point that he was taking that away to offer that up,  
25 whether it be through the Federation representative or

## Transcript of the Sheku Bayoh Inquiry

- 1 otherwise.
- 2 Q. What was the response ultimately that you received in  
3 relation to that suggestion?
- 4 A. No response.
- 5 Q. Did you follow that up --
- 6 A. No, I didn't. And as I say, in hindsight that is  
7 possibly something I could have done.
- 8 Q. Looking at it now, do you consider that perhaps going  
9 through and making requests through Police Scotland  
10 perhaps looks slightly deferential to Police Scotland  
11 when you are supposed to be in charge and taking the  
12 lead on matters?
- 13 A. Possibly.
- 14 Q. If you had taken the initiative and gone, when would you  
15 have gone to speak to the officers?
- 16 A. As soon as somebody came back to me and said, "Yes, that  
17 is fine".
- 18 Q. So if Pat Campbell had come back to you and said yes or  
19 no, what would you have done?
- 20 A. If he had ...?
- 21 Q. If he had come back to you and said, "Yes, go and see  
22 the officers", or, "No, we don't want you --"
- 23 A. I would have done that.
- 24 Q. If he had said yes. What if he had said, "No we don't  
25 want you to do that"?

## Transcript of the Sheku Bayoh Inquiry

1           A. I don't know actually, I am not sure. I think I would  
2           have to be in that position to actually ... I would  
3           probably have questioned him further on how do you get  
4           that response in the first place and then make  
5           a decision from there.

6           Q. We have heard evidence and you have just mentioned that  
7           officers were refusing to provide, or were not prepared  
8           to give statements?

9           A. Yes.

10          Q. Was it Pat Campbell that told you it was on the basis of  
11          legal advice --

12          A. Yes.

13          Q. -- that they had received? Was that linked to advice  
14          that they had apparently received from the Federation,  
15          or --

16          A. A representative.

17          Q. From a representative. Can I confirm, you mentioned  
18          this earlier, was the status of the officers at that  
19          time, did it remain witnesses --

20          A. Yes.

21          Q. -- as a witness?

22          A. It didn't change.

23          Q. We have heard evidence from Amanda Givan, who was the  
24          Federation rep on that day, and she has said that the  
25          officers absolutely didn't have clarification of status.

## Transcript of the Sheku Bayoh Inquiry

1           She said she was absolutely certain that during the day  
2           they didn't have clarification of their status. Can you  
3           explain why that was, if that is correct?

4           A. No, I can't because it was quite clear, it was raised  
5           with Pat Campbell, I know Pat Campbell referred to that,  
6           that his position was that they were witnesses  
7           throughout as well. I mentioned in the Gold Group  
8           meeting that we would be -- that they were all witnesses  
9           and we would be requiring statements from them in due  
10          course.

11          Q. So when was the first time that you remember saying to  
12          Pat Campbell, for example, that the officers' status was  
13          of witness?

14          A. I think it was either on the first or second telephone  
15          conversation with him before we got to Kirkcaldy.

16          Q. During the course of that day, how many times did you  
17          speak to Pat Campbell about the status of the officers?

18          A. One for definite and the second occasion would be during  
19          the Gold Group meeting, he was there along with  
20          ACC Nicholson and the other Police Scotland staff.

21          Q. I think in your statement you say you thought Trickett  
22          was maybe present at a Gold Group meeting?

23          A. Yes, I understand he maybe wasn't there but I thought he  
24          was.

25          Q. We heard evidence from Conrad Trickett that he didn't go

## Transcript of the Sheku Bayoh Inquiry

1 to the Gold Group meetings that day, that there had been  
2 a conversation between him and Garry McEwan that he was  
3 better to spend time with the officers instead of  
4 attending the Gold Group meetings. Looking back now, do  
5 you think that the level of communication between  
6 yourself and Police Scotland about the status of the  
7 officers could have been improved?

8 A. No, it was very clear.

9 Q. Was there any -- we have also heard evidence about some  
10 of the officers may have wanted their status confirmed  
11 in writing. Was there any reason why PIRC would have  
12 been reluctant to put that status in writing?

13 A. I wasn't aware of any such request.

14 Q. If you had been asked on 3 May to put that in writing,  
15 what would your response have been to that sort of  
16 request?

17 A. That probably would have initiated going to speak to the  
18 officers direct again and giving that one-to-one -- or  
19 one-to-the-group clarification at all, if you need it.  
20 As I say, it had been conveyed through Police Scotland  
21 but the response was that -- on the legal advice that  
22 they had, that -- so that was -- my assessment was that  
23 that wasn't going to change in the short-term. But  
24 there was never any indication to me that they were  
25 unaware of what their status was.

## Transcript of the Sheku Bayoh Inquiry

- 1 Q. When you heard that they weren't willing to give  
2 statements, at that point did you consider speaking to  
3 them direct, the officers --
- 4 A. Well, that was the point when I was made aware with  
5 Pat Campbell and that offer was made, that -- as I say,  
6 in hindsight I could have potentially followed that up  
7 more strongly.
- 8 Q. Can we perhaps look at the Gold Group meeting minutes  
9 for that meeting. PS07268. You will see the time is  
10 given as 14.40, you are present at that time,  
11 Keith Harrower, and also John Ferguson who I understand  
12 was an investigator for PIRC as well?
- 13 A. Yes.
- 14 Q. Just shortly prior to this meeting you have arrived in  
15 Kirkcaldy Police Office and you have had a handover with  
16 Pat Campbell?
- 17 A. Yes.
- 18 Q. Who else was at the handover? We have heard evidence  
19 I think that Lesley Boal was there; do you remember her?
- 20 A. I am sure there was more of our staff, I don't know if  
21 they were all there or not.
- 22 Q. You think all of the PIRC staff were --
- 23 A. I am not sure if they were all there, but there was  
24 certainly other PIRC staff there.
- 25 Q. Right. That was the first face-to-face discussion that



## Transcript of the Sheku Bayoh Inquiry

1           you had had with Pat Campbell, the SIO?

2           A. Yes.

3           Q. Can you tell us the version that you were given of  
4           events at that handover? Now, you may want to look at  
5           your operational notes, I think page 8.

6           A. What time was that again?

7           Q. This would be around about half past one.

8           A. There is no notes regarding that specifically, the notes  
9           are in relation to the following -- the Gold Group  
10          meeting just after 2 o'clock.

11          Q. Was there any difference between the version you were  
12          given at the handover compared to what you had been told  
13          by Green, Blackhall and Campbell?

14          A. Not from my recollection. It pretty much mirrored our  
15          second discussion with Pat Campbell and then I think  
16          more about what was going on elsewhere at the other  
17          locations.

18          Q. You have said in your statement you were satisfied in  
19          relation to the handover yourself. We have heard  
20          evidence from Pat Campbell and Lesley Boal about the  
21          handover, and Lesley Boal -- I will just read this out.  
22          She gave evidence on 66th day of the Inquiry on  
23          1 September last year and said:

24                        "For me it wasn't at a sufficient level."

25          A. She described it as:

## Transcript of the Sheku Bayoh Inquiry

1            "There were a couple of, if I can call it,  
2 tumbleweed moments. To be honest it was quite  
3 uncomfortable."

4            She says:

5            "I suppose I thought, perhaps wrongly, that PIRC  
6 would come in and, you know, there would be a discussion  
7 as to what they wanted, because my impression was that  
8 they were going to lead the investigation and  
9 Police Scotland were there to provide any support that  
10 they so required. I highlighted the fact that there may  
11 be other specialists available to start drawing up  
12 strategies for other areas and my thought was, well,  
13 Police Scotland could draw up a strategy, hand it to  
14 PIRC, they could either accept it, amend it or reject  
15 it, it was up to them, and I thought that would be  
16 helpful."

17           She said:

18           "There wasn't obvious information coming from the  
19 meeting."

20           Do you have any comments about what Lesley Boal said  
21 to the Inquiry about the handover not being at  
22 a sufficient level?

23           A. That is clearly her opinion. I don't think Pat Campbell  
24 articulated along similar lines, as far as I was aware.  
25 I was satisfied from the information we got and then

## Transcript of the Sheku Bayoh Inquiry

1           subsequently from the Gold Group meeting to then move  
2           forward to do the priority actions that we had to do.

3           Q. So you were satisfied with the quality of the -- that  
4           meeting, that handover, between Police Scotland and PIRC  
5           at that time?

6           A. Yes.

7           Q. Can I ask you about -- let's go back to the  
8           Gold Group minutes which we have on the screen. You  
9           will see as we go through that -- perhaps we could look  
10          at page 2. Thank you. You are given a factual update.  
11          Pat Campbell talks to the investigative process and  
12          details various items that are included. If we can go  
13          to the bottom of that page it says:

14                 "FLO to be briefed in relation to equality and  
15                 diversity, NOK has been informed by DC Parker and  
16                 DC Mitchell."

17                 Just above that there is next of kin strategy:

18                 "Partner of deceased made aware and statement noted,  
19                 no formal ID has taken place but ID has been done by  
20                 a Facebook image initially. [Next of kin] identified as  
21                 sister and a FLO being identified (2 x Police Scotland  
22                 FLOs have been identified 1 x DI as FLO to brief and  
23                 coordinate."

24                 Can you tell me what your expectations were at that  
25                 time in relation to FLOs?

## Transcript of the Sheku Bayoh Inquiry

1           A. It had been discussed at an early stage with  
2           Pat Campbell prior to arriving that the Police Scotland  
3           FLOs were going to be deployed. There was no question  
4           over that at that stage, and obviously that hadn't  
5           changed at that time. That was part of the plan, and  
6           I was satisfied with that. I knew that at some stage,  
7           an early stage, our FLOs would be deployed but not that  
8           day. Then they would have an appropriate time to be  
9           briefed for a handover for the family at the appropriate  
10          stage.

11          Q. Can you explain why there were no FLOs from PIRC  
12          available that day?

13          A. Available as in ...?

14          Q. You have said there were no FLOs -- we have heard  
15          evidence there were no PIRC FLOs that day.

16          A. No, there were none there and there were none -- well,  
17          there was one that was on call who -- John Ferguson was  
18          a FLO as well but obviously he was otherwise engaged.  
19          So we didn't pursue trying to get any trained FLOs at  
20          that stage as we had a commitment from Police Scotland  
21          that FLOs would be deployed.

22          Q. So your understanding was that Police Scotland were  
23          deploying FLOs?

24          A. Yes.

25          Q. For use that day?

## Transcript of the Sheku Bayoh Inquiry

- 1 A. Yes.
- 2 Q. And although John Ferguson was a trained FLO --
- 3 A. Yes.
- 4 Q. -- he was engaged with other tasks?
- 5 A. Yes, he was going to be dealing with Mr Bayoh's body.
- 6 Q. If you had had extra resources or another pair of hands
- 7 would that have freed up John Ferguson and released him
- 8 to allow him to perform FLO tasks?
- 9 A. It could have done, yes.
- 10 Q. So if you had had extra PIRC staff investigators, could
- 11 you have found PIRC FLOs that day?
- 12 A. I may have been able to -- made attempts anyway to call
- 13 them out in addition to that. As I say, I was satisfied
- 14 with the arrangements that were in place at that time.
- 15 Q. So you were satisfied that this would be -- FLOs would
- 16 be provided by Police Scotland?
- 17 A. Yes.
- 18 Q. And did it matter at all that PIRC were responsible for
- 19 the investigation into the death of Mr Bayoh or you were
- 20 happy that Police Scotland should be dealing with the
- 21 matter and FLOs?
- 22 A. At the initial stage, but that would change. That
- 23 happens a lot where we have critical incidents where --
- 24 particularly at that time, where Police Scotland would
- 25 deploy FLOs initially for a variety of reasons and that

## Transcript of the Sheku Bayoh Inquiry

1           speedily turned around depending on where the location  
2           is, etc and then they would have a comprehensive  
3           handover with our staff to the family who would then  
4           continue to the end of the investigation.

5           Q. We have heard some evidence about FLOs and I hope to be  
6           able to -- we will be hearing more evidence later in the  
7           Inquiry. Is it the case that, when you have a FLO, that  
8           it is an important aspect to build relationships and  
9           good relationships with the next of kin --

10          A. Yes.

11          Q. -- with the family. Is that not easier if it is the  
12          same person that is continuing to maintain that contact  
13          with the family, rather than chopping and changing?

14          A. It could be in a lot of circumstances, yes.

15          Q. Would there have been benefits in appointing PIRC FLOs  
16          that day and maintaining that contact between PIRC FLOs  
17          and the family?

18          A. There may have been, particularly when, in hindsight,  
19          with how things went with Police Scotland and the  
20          response by the family.

21          Q. Nowadays would you appoint PIRC FLOs sooner, so you have  
22          that reassurance that you know who is going and who is  
23          staying with the family?

24          A. To be honest, Alistair will be better informed to give  
25          you more information on that, but just now my

## Transcript of the Sheku Bayoh Inquiry

- 1           understanding is that it happens both ways still.
- 2           I have recently dealt with other deaths where initially
- 3           Police Scotland FLOs would be deployed and then, as
- 4           I say, we then hand over and there would be a variety of
- 5           reasons for that.
- 6           Q. In terms of best practice, what is the best option for
- 7           the family: having the Police Scotland FLO initially and
- 8           then changing or having PIRC FLOs and staying?
- 9           A. For some families that might work adequately well.
- 10          There is not an issue with that. Others, it would work
- 11          much better if there is a continuity, as you refer to,
- 12          throughout, I think. People would be very different.
- 13          They are carrying out the same function.
- 14          Q. As lead investigator you obviously juggling resources
- 15          and making decisions about who is to go where. Is this
- 16          a situation where you prioritised John Ferguson for his
- 17          role in going to Victoria Hospital --
- 18          A. He was called out specifically for his skill base as
- 19          a scene manager.
- 20          Q. So you utilised him for scene management experience that
- 21          he had?
- 22          A. Yes, and Garry Sinclair likewise.
- 23          Q. Garry Sinclair likewise?
- 24          A. Yes, likewise.
- 25          Q. Rather than any FLO experience that Mr Ferguson had?

## Transcript of the Sheku Bayoh Inquiry

1 A. Yes.

2 Q. In hindsight now, looking at that decision, do you think  
3 it would have been better to prioritise FLO over scene  
4 management?

5 A. At the time I was more than content with the  
6 arrangements that were in place. As I say, it had  
7 happened on numerous occasions, the same way in relation  
8 to the family liaison officers, so I was more than  
9 content at the time that that -- but obviously the  
10 circumstances changed very late in the day.

11 Q. Can I ask you about delivery of the death message. We  
12 have heard a lot of evidence about that. That was  
13 delivered by Police Scotland officers. We have heard  
14 from both of them. Looking to the future, obviously  
15 I am interested in whether you think PIRC could take  
16 a more proactive role in relation to delivery of the  
17 death message. So in a situation where PIRC are brought  
18 in to investigate a death and there is going to be  
19 liaison with the family, there is going to be contact  
20 with the family, perhaps for a sustained period, do you  
21 think there would be any benefit in having PIRC take  
22 a more proactive role in relation to that?

23 A. I think there would be a lot of issues with that. The  
24 death message -- I have heard significant discussion as  
25 regards the delays to the family, quite rightly. It was



## Transcript of the Sheku Bayoh Inquiry

1 a lengthy period of time before they were made aware.

2 It is important that they are made aware at a very early  
3 juncture. Now, to put that into the responsibility of  
4 PIRC FLOs that may be travelling two or three hours to  
5 get to a location, I think it is impractical. As far as  
6 we are concerned it's a police responsibility to deliver  
7 that death message, deliver it in an appropriate manner  
8 with relevant information on what can be said at the  
9 time. I think that was the issue here.

10 Q. When you say -- Police Scotland responsibility at a very  
11 earlier juncture the death message should be delivered?

12 A. Yes.

13 Q. When you say that, "a very early juncture", what time  
14 scale are you considering to be appropriate?

15 A. As soon as reasonably practical. In different  
16 circumstances, again that depends where the family  
17 members are. There could be travel involved to do that  
18 personally. Obviously, it has to be done in person or  
19 should be, so -- but it has to be there as a high  
20 priority to have that action completed.

21 Q. When did you become aware that -- obviously we can see  
22 in the minutes of this Gold Group meeting that you are  
23 told next of kin has been informed by DC Parker and  
24 DC Mitchell. We have heard evidence this actually  
25 wasn't until shortly after 3 o'clock that they arrived

## Transcript of the Sheku Bayoh Inquiry

1           at the home of the Johnsons. When did you become aware  
2           for the first time that the death message had been  
3           delivered to the family? Was it at this meeting or was  
4           it earlier or later?

5           A. I'm not sure. I was aware it hadn't been passed I think  
6           when I arrived at Kirkcaldy. As far as specifically  
7           when I was told that it had been -- because I know it  
8           was initially under consideration that the FLOs would  
9           deliver the death message. Now, I'm sure that was --

10          Q. We have heard people speak of that.

11          A. Yes, but that to my mind was inappropriate as well. So  
12          that was I think quickly turned around to whatever the  
13          decision process was about who actually delivered that  
14          and what was said.

15          Q. Prior to this Gold Group meeting who was it that told  
16          you the death message hadn't been delivered?

17          A. I am not 100% sure. I would anticipate it came from  
18          Pat Campbell, because the majority of the information on  
19          the ongoing issues were coming through him, but I don't  
20          know that for sure.

21          Q. Did that cause you concern from a PIRC perspective, that  
22          the family hadn't been --

23          A. Yes.

24          Q. -- up until then?

25          A. Yes.

## Transcript of the Sheku Bayoh Inquiry

- 1 Q. What were those concerns? What was the basis for those  
2 concerns?
- 3 A. It is the right for the family to know, that they should  
4 be made aware that -- of losing a close relative and  
5 it's only right and proper that that is delivered at  
6 an early juncture.
- 7 Q. Then we see on the next page at item 5 on the agenda of  
8 this meeting there's discussion there of:
- 9 "Family concerns - (Det Insp Robson)  
10 "Discussion [regarding] [next of kin] strategy  
11 identified as sister of deceased, Collette Bell,  
12 girlfriend of deceased is currently within Kirkcaldy  
13 Police Station and has been informed a deceased person  
14 is in hospital and that it may be her partner."
- 15 Do you remember discussion at that time about family  
16 concerns?
- 17 A. No, I don't recall. Obviously it has taken place but  
18 I don't recall any specifications on that.
- 19 Q. Then for completeness item 8 on the agenda is headed  
20 up "Staff welfare". This name next to it is  
21 Chief Inspector Trickett. As I said earlier, we have  
22 heard from Conrad Trickett that he didn't attend the  
23 Gold Group meetings that morning. You have mentioned  
24 that you thought he was --
- 25 A. I thought he was there, yes.

## Transcript of the Sheku Bayoh Inquiry

1 Q. Do you remember this discussion about staff welfare and  
2 who led on that discussion?

3 A. All I can recall -- I can't remember if it was  
4 Pat Campbell that told me what Chief Inspector  
5 Trickett's function was there, which was welfare and  
6 support of the officers. That was what was articulated  
7 to me, but that is all I can remember.

8 Q. It says there:

9 "Trickett and two Fed reps have been with officers  
10 providing support and assistance throughout the day."

11 There is no mention there of post-incident  
12 procedures having been implemented?

13 A. No.

14 Q. Thank you. Can I ask you about -- we talked about it  
15 earlier, the parallel investigation, the part of the  
16 investigation that Police Scotland were conducting about  
17 events leading up to the arrival of Mr Bayoh at  
18 Hayfield Road. Were you kept up-to-date on that aspect  
19 of the police investigation?

20 A. Yes. Pat Campbell gave me updates at different  
21 intervals on I think developments with the houses, etc.

22 Q. And did the Gold Group meetings cover both those  
23 elements --

24 A. Yes, I believe so.

25 Q. -- the police aspect of the investigation and the PIRC

## Transcript of the Sheku Bayoh Inquiry

1 aspect?

2 A. Yes.

3 Q. Looking back now, did that help or did it hinder?

4 Did it cause confusion or was it of assistance?

5 A. I don't think it caused confusion. As I said, it was  
6 helpful from my perspective just to know what was going  
7 on in relation to the other incidents, and any  
8 significant developments from there.

9 Q. Can I be clear, PIRC had at that time no responsibility  
10 at all in relation to the matters leading up to the  
11 arrival of Mr Bayoh in Hayfield Road?

12 A. No.

13 Q. So we have heard evidence from a number of witnesses  
14 about searches of properties or seizing properties,  
15 police arriving at properties, in relation to  
16 Collette Bell, Martyn Dick, Kirsty MacLeod and  
17 Mr Saeed's family home, a number of his relatives. Were  
18 PIRC involved with any of that?

19 A. No.

20 Q. Were you responsible for any decisions taken in relation  
21 to that?

22 A. No.

23 Q. Were you aware of the legal basis upon which it was  
24 intended to seize or search any of those properties?

25 A. I think there was certainly reference at some point to

## Transcript of the Sheku Bayoh Inquiry

1           seeking permission of the respective householders to  
2           undertake that activity. I am sure that was mentioned  
3           at some stage during the forensic strategy meeting  
4           I think, although I don't think it was recorded within  
5           the minutes or anything for that, but ...

6           Q. For example, we have heard evidence from a Mrs Rashid  
7           and a Mr Ahmed and we have seen the scene entry log of  
8           the police arriving at their home at round about 1.30 in  
9           the afternoon. My understanding is that that would have  
10          been prior to the forensic strategy meeting, is that  
11          correct?

12          A. It would have been, yes.

13          Q. Who was it that discussed permission of householders at  
14          the forensic strategy meeting?

15          A. I don't know who raised the topic. I just have  
16          recollection of it being mentioned at some point and  
17          I thought it related to that meeting. As I say, there  
18          was no direct discussion on how that would be  
19          approached, what our viewpoint was on it or -- because  
20          it wasn't relevant to us.

21          MS GRAHAME: Thank you.

22                    I am about to move on to another topic. Would you  
23                    wish me to continue?

24          LORD BRACADALE: I think, given the time, this would be  
25                    an appropriate moment to rise. So we will continue with

## Transcript of the Sheku Bayoh Inquiry

1           your evidence tomorrow morning at 10 o'clock,  
2           Mr Harrower. Thank you. We are adjourned until  
3           10 o'clock tomorrow morning.

4           (4.14 pm)

5           (The Inquiry adjourned until 10.00 am on Wednesday,  
6    7 February 2024)

7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

## Transcript of the Sheku Bayoh Inquiry

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



Transcript of the Sheku Bayoh Inquiry

	INDEX	
		PAGE
1		
2		
3	MR KEITH HARROWER (called) .....	1
4	MR KEITH HARROWER (sworn) .....	2
5	Questions from MS GRAHAME .....	2
6		
7		
8		
9		
10		
11		
12		
13		
14		
15		
16		
17		
18		
19		
20		
21		
22		
23		
24		
25		