



Supplementary Witness Statement of Irene Scullion

Address: [REDACTED]
[REDACTED]

Date of birth: [REDACTED]/1956

Call with the Commissioner on 3 May 2015

1. In your Inquiry statement (SBPI-00414), you detailed a call you placed on 3 May 2015 to alert the then-Commissioner, Kate Frame, to the incident involving Mr Bayoh at Hayfield Road. Your evidence concerning this call was:

28. I have been asked when I first became aware of the incident at Hayfield Road. I remember this because it was the holiday weekend and I was down south visiting my daughter, and I got a phone call before 10 o'clock on the Sunday morning from Ricky Casey, the on-call manager. Keith Harrower was the deputy senior investigator, and I can't recall off the top of my head who his team were.

29. The reason Ricky was phoning me was because he felt the incident was so high profile that he needed to let the Commissioner know immediately, which is very unusual. We normally didn't let the Commissioner know about on call matters until the next working day, but Ricky felt that this incident was something that was likely to cause significant media interest and he thought she should know. He didn't

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have her phone number to hand and wondered if I had it. When he made me aware of what he was doing – he was helping Keith gather a team together – I said, “You go deal with that. I will locate the Commissioner’s number and I’ll phone her and let her know.”

30. I can’t remember if I had my work phone with me because I had to scramble around to find her phone number and then let her know. I think the only other involvement I had that day – because, as the on call manager, Ricky was dealing with it – was a phone call from the comms team sometime in the afternoon. They wanted me to sign off on the press release.

31. I have been asked what Ricky Casey indicated that made this particular incident high profile. I think he said it was a man that had died in custody and that the man was black - obviously we were living in a time where, quite rightly, there’s been a focus – globally - on deaths of people of colour, so he knew that there would be media interest.

32. I gave the Commissioner the information that Ricky had given me, that somebody had died in police contact, and the person was black. I told her that Ricky and the team were dealing with it, and I don’t recall her saying much more than her thanking me for the information.

33. I have been asked if I had any initial thoughts on what may be needed or what I would need to do. At that point, no. I didn’t because I was confident in the staff involved. Keith Harrower was a very experienced investigator with a very solid police background, a person I’d always had faith in. Ricky, as the manager that was overseeing it, again, a senior former police officer - solid. I had no reason to feel that I needed to micro-manage something that I was confident that they would already have well in hand.

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34. *I have been asked if I would have expected the Commissioner to seek any further information or briefing from me or any person at PIRC who was working on this day. The Commissioner would not normally have expected to be kept routinely posted during the period of intense and dynamic activity following an incident. She would usually have expected a full briefing once the team had gathered sufficient information to compile one. In this instance Keith Harrower had a briefing prepared for the following morning.*

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38. *I have been asked if it was normal practice for the Commissioner to be made aware of an incident of this nature. I would say not. It would only be if we thought that there was a possibility that she would be contacted, for example, for a media statement because of something that was high profile. I think there's probably only a handful of times that the Commissioner would ever have been alerted to something that happened over a weekend or a public holiday. That would not be because we expected her to actually start managing it, but because she was the most senior person in the organisation, and it would not be appropriate for her to be unaware of the matter and wrong-footed if someone contacted her.*

2. In the Inquiry statement of Kate Frame (SBPI-00447), her evidence concerning this call was:

160. *My first knowledge of the incident was through the media that morning, that an officer had been injured in the course of her duties and taken to hospital. I don't recall what the injuries referred to were and I don't think at that time there was any mention that there had been a death in custody. Through the media it wasn't readily apparent that the matter would, in fact, be referred to PIRC. At around lunchtime that day, Mrs Scullion phoned me to let me know that Crown Office staff had directed the PIRC to investigate the circumstances which related to a death in custody. I was on annual leave at that time, and she said that she was simply*

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providing me with a courtesy call because she thought that there was considerable press interest in it.

161. I can remember saying that I had heard reporting of the incident involving a policewoman several hours earlier, and she said that the incident was related. She told me that a male had died following his arrest in Kirkcaldy and provided some information about the events preceding the arrest. She told me that the man had been at a party and at a friend's house to watch a boxing match, that he'd assaulted one of his friends and that there had also been a disturbance at the man's own house where property had been damaged. She said that she didn't know how that had happened nor was sure of the sequence of events.

162. She then said that the man had been seen chasing after cars with a knife, that the police had been dispatched and that Police Scotland had considered that it might be a terrorist incident. Against the backdrop of the information that she'd provided, I didn't understand why it had been considered to be a terrorist incident and asked why. She said it was because the man was what she described as "a coloured gentleman," and I asked her what she meant by that and whether there was anything else to point to it being a terrorist incident, as I still found it quite difficult to understand what would cause the police officers to think that the incident was terror related. She said that his actions in chasing after and striking out at cars with the knife may have contributed to that belief, and she referenced an attack in England.

163. Mrs Scullion informed me that "Police Scotland" and not the individual officers had considered that it might be a terrorist incident.

164. I have been asked where Irene Scullion obtained the information that Police Scotland had considered that it might be a terrorist incident. I don't know but I would assume that she spoke to Mr Harrower or someone within Police Scotland.

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165. I have been asked if I specifically recall Mrs Scullion using the term “a coloured gentleman” to describe Mr Bayoh. Yes, because I remember not understanding what she meant when she said that it had caused the matter to be thought of as a terrorist incident. I did ask her what she meant by it and asked her a variety of questions around the ethnicity of the person. I don’t recall her informing me that Mr Bayoh was black.

166. I have been asked if I considered using the term “a coloured gentleman” to describe Mr Bayoh to be appropriate. No.

167. I have been asked if I mentioned that I found it inappropriate to Mrs Scullion. I did not raise that with Mrs Scullion on the call but did informally discuss the use of that phrase with her sometime later and she acknowledged that it was inappropriate.

168. I have been asked if I ever considered it necessary for there to be any formal disciplinary proceedings as a result of the language used by Mrs Scullion. No, I didn’t. At the time I was more focused on understanding why the incident was being considered as a terrorist incident.

169. I have been asked if I ever came across other instances of colleagues at PIRC using inappropriate language regarding Mr Bayoh’s race or ethnicity. I don’t think so.

170. Mrs Scullion went on to say that when the police came in contact with the man, that he’d assaulted the female officer, who had been taken to hospital, and during his arrest, he’d become unconscious and had died. She confirmed that Mr Harrower and the on-call team were either already at Kirkcaldy or on their way there. She said that Crown Office had directed that the PIRC investigation was to be confined to the area where Police Scotland had arrested the man, and his house and his friend’s house were to be the subject of an investigation by Police Scotland.

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She said that she did not know why Crown Office had directed Police Scotland to investigate at those houses. I found it strange that they'd been separated into PIRC and Police Scotland investigations and felt that if PIRC was investigating the incident, that it may have been better that PIRC assumed responsibility for the entire sequence of events rather than Police Scotland investigating part of the same incident.

171. Mrs Scullion said that Mr Harrower had discussed with Police Scotland what their responsibilities would be until the PIRC investigators took over the scene, and her understanding was that Police Scotland were already protecting the scene where the man had died and had initiated the post-incident management (PIM) process.

172. I can remember asking her whether Crown Office had provided any guidance on whether the officers were to be treated as witnesses or suspects, and she said that they were being treated as witnesses. I also asked her whether the officers had been separated as I had previously indicated that that would be an appropriate step in such circumstances. She said that she understood they hadn't been and that she didn't expect that to happen because the Authorised Professional Practice (APP), which governed the PIM process, did not require it. I also asked if Mr Harrower had sufficient resources, and she confirmed that he had.

173. I didn't instruct Mrs Scullion to direct that the officers be separated as she had already confirmed that the PIM process was in place and having raised the question of separation of the officers with her, she made it clear that from previous discussions with Police Scotland that it was unlikely that separation would take place. I'd previously expressed my view to her that in those circumstances officers should be separated.

174. I understood what the PIM process was. I thought it was entirely sensible for it to applied in this incident. I do recall that Mrs Scullion said the officers had been

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taken back to Kirkcaldy Police Office, and we had some discussion around the whereabouts of the PIM suite because I wasn't aware if there was a dedicated PIM suite at Kirkcaldy Police Station.

175. From what Mrs Scullion said I understood that Mr Harrower considered the PIM process to be in operation.

176. I have been informed that the Inquiry has obtained evidence from Mr Harrower that he was unaware that a PIM process had been put in place and that a post-incident manager had been appointed on 3 May 2015. I don't know what information had been provided to Mr Harrower, I'm referring to the information which Mrs Scullion gave me.

177. I can specifically remember that because, as part of the discussion with Mrs Scullion, she said that as the PIM process was in place there was little point in anyone else attending as access to the PIM suite would be restricted. Mr Harrower, as the lead PIRC investigator would have been able to gain access, but it would have been a fairly restricted process for others.

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182. I asked Mrs Scullion if she intended to attend and when she said that she wasn't going I suggested that I would attend. She told me that there was little point in going as the scene was being protected by Police Scotland, that the officers were already subject to the PIM process; that they'd been asked for their initial accounts and that Mr Harrower and the team were already there or just about there. She reassured me that Mr Harrower had everything, as she described it, "under control."

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183. I said to her that I would try to reschedule my existing arrangements to go to the briefing the following morning to get a clearer picture of events and I managed to do that. Mr Little led the briefing and agreed various actions.

184. I have been asked if I had ever attended an incident before. Whilst I did not attend any incidents as the PIRC, I regularly used to attend unexplained or suspicious deaths as a Fiscal.

185. I have been asked what led me to offer to attend the incident in this case. The nature of the incident and the fact that it was a death in custody.

186. I have been asked if Mr Bayoh's race impacted on the consideration I gave to attending the incident. No.

187. I have been asked if it was commonplace for me to be made aware whilst I was on annual leave that a PIRC investigation was commencing. Yes. I was regularly contacted in relation to high-profile matters out of hours.

188. I have been asked if I had any further involvement with the investigation on 3 May 2015. No, I don't recall having any further involvement that day.

3. **Statement** – I have been asked about a call Ms Frame states that I made to her about lunchtime on 3 May. While, as per my statement, I recall calling her around 10 am to alert her that an incident had occurred (doing so to assist the on-call manager, Mr Casey, who had been unable to locate Ms Frame's number), I do not recall the later call at around lunchtime that Ms Frame references. Nor do I recall receiving further contact from either Mr Casey or Mr Harrower during the course of the morning that would have provided the information Ms Frame sets out in her statement. Mr Casey's or Mr Harrower's statements may provide clarity on the matter. I do recall having no contact with Police Scotland during the course of that day.

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As I cannot recollect the call Ms Frame refers to, I am unable to comment on its content as set out in her statement. I can only comment where my values have been questioned or where there are parts of Ms Frame's statement that I do not understand.

4. **During the call with Ms Frame on 3 May 2015, did you use the phrase "a coloured gentleman" to describe Sheku Bayoh?**

I have never in my personal or professional lives used such a pejorative term. Such language is completely alien to me. The only other term I would use in place of 'black' is 'person of colour'.

5. **Your statement includes that you indicated to Ms Frame that Sheku Bayoh was black. Can you recall the precise language that you used during this call to describe or discuss Sheku Bayoh's race?**

My recollection is that, in the call I made to Ms Frame at 10 am to alert her that an incident had occurred, I used the term 'black'.

6. **Ms Frame's evidence identifies that during the call you provided a detailed account of the incident involving Sheku Bayoh on 3 May 2015 and the events preceding his arrival at Hayfield Road. Do you recall providing this level of detail to Ms Frame during your telephone conversation?**

As I do not recall the call that Ms Frame references, I cannot comment on the details she has set out in her statement.

7. **If so, from whom did you receive this level of detail about the incident and the events preceding Sheku Bayoh's arrival at Hayfield Road?**

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If I had been in possession of any details, I would have received this information from either Mr Casey or Mr Harrower. I have no recollection of receiving a call or calls from them that morning containing these details. Their statements may provide some clarity.

8. Which, if any, details contained within Ms Frame’s evidence were not communicated to Ms Frame during your telephone conversation?

As I cannot recollect this call, I am unable to comment on the content as set out in Ms Frame’s statement.

9. Did you relay to Ms Frame that “Police Scotland had considered that it might be a terrorist incident.”? If so, what was your understanding of this?

I have no recollection of relaying to Ms Frame in any call that day that Police Scotland considered it a terrorist incident.

10. How had you gleaned this understanding?

As I cannot recollect the call Ms Frame references, I am unable to comment on the content as set out in Ms Frame’s statement.

11. Did you or anyone else make a direct link between Sheku Bayoh’s race and the incident being considered a possible terrorist incident?

I do not recall Mr Casey making such a link when he phoned me around 10 am seeking Ms Frame’s phone number. I do not recall any further calls from him or Mr Harrower that morning prior to the lunchtime call that Ms Frame references.

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12. Did Ms Frame ask you a “variety of questions around the ethnicity of the person”? If so, what questions did Ms Frame ask of you?

As I cannot recollect this call, I am unable to comment on the content as set out in Ms Frame’s statement.

13. Ms Frame’s evidence is that, following on from you having used the phrase “a coloured gentleman”, she did not raise any issue about this language during the call but informally discussed the use of that phrase with you “sometime later and [you] acknowledged that it was inappropriate.” Did a conversation take place between the two of you about the language used on this call? If so, when? Can you recall what was said by Ms Frame and by you? Did you acknowledge that this language was inappropriate within this subsequent conversation with Ms Frame?

While I do not recollect the call, I can say with confidence that I have never used that phrase at any time. I therefore cannot understand why Ms Frame has stated that ‘sometime later’ she spoke to me about the phrase and that I acknowledged that its use was inappropriate. This conversation she refers to did not, and could not, have happened as I have never used such demeaning language.

14. Ms Frame’s evidence is that Ms Frame suggested she attend the incident on 3 May and that you told her “there was little point in going” and that DSI Harrower had everything “under control”. Did this exchange occur during your call with Ms Frame? If so, can you provide any further information as to what was said?

As I cannot recollect this call, I am unable to comment on the content as set out in Ms Frame’s statement. I am, however, a little confused by this section of Ms Frame’s statement as she states that she asked me if I intended to attend the incident and that I responded that I ‘wasn’t going’. I am unclear why she states that

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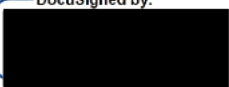
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she asked if I would be attending as she would have been aware this would not have been feasible as I was on holiday several hours drive away.

15. Do you have any further remarks on Ms Frame's evidence as to the content of your call with her on 3 May?

While my recall of this inquiry from its outset until I retired is hazy, I am confident in my value base. I cannot recall the call Ms Frame refers to but reiterate that I am appalled at the suggestion that I used offensive language.

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

Signature of Witness  Date **February 2, 2024 | 4:10 PM GMT**