



**The Sheku Bayoh Public Inquiry**

**Witness Statement**

**Irene Scullion**

**Taken by [REDACTED] by MS Teams  
on Thursday 5 October 2023**

**Witness details**

1. My full name is Irene Scullion. My date of birth is in 1956. My contact details are known to the Inquiry.

**Professional Background**

2. I joined PIRC in 2013 when it had been established, and I retired in March 2017. I was Head of Investigations at PIRC. That was my job title from when I joined until I retired.
3. I have been asked about my professional background prior to working at PIRC. After graduating, I trained as a social worker. I was in social work in various roles for about 20 years from '78 till about '98, and then I joined what was then the Scottish Executive's Social Work Services Inspectorate Unit, which was responsible for inspecting social work services and carrying out investigations at

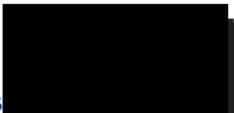
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the request of the Minister. That organisation, like a lot of government organisations, changed names many times and was reformed, and by the time I'd left, it was called the Care Inspectorate, and I was the south of Scotland manager of the Inspectorate at that point. This was my last role before joining PIRC.

4. I have been asked if I had any training at PIRC for the Head of Investigations position. I did not. The skills I think that I brought with me were the ones that they were looking for, which was to manage teams of people, and to support people, and to analyse, investigate and enquire at that kind of managerial level.
5. I reported to the Director of Investigations, John Mitchell. I have been asked how many staff reported to me. It changed between 2013 - 2017. I'm going to say probably about 27 to 30, but I can't recall exactly. They were not all directly line managed by me, I directly line-managed three senior investigators who managed others.

### **My Role and PIRC as an organisation**

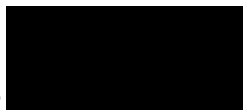
6. I have been asked about my role and what my duties and responsibilities were as Head of Investigations. It was primarily to manage staff, to allocate work as it came in, to make sure that staff were properly supported and supervised, to look at some of the work that they were carrying out, and to ask what I thought were the obvious or difficult questions, ones that they perhaps hadn't thought of themselves. Investigations were allocated to small teams led by a deputy lead investigator. One of our three senior investigators was also allocated to oversee the investigation. It would only be at the late stages of investigation when it would come to either myself or my line manager, the Director of Investigations, to look in detail at what had been done, review what had been done, spot any obvious gaps, and perhaps suggest other lines of enquiry.
7. I have been asked if the investigation into the death of Sheku Bayoh was unusual in that I and John Mitchell had more involvement from earlier in the investigation.

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I would probably say it was, and I think that was indicative of what we were aware of from the outset, would be a very high-profile investigation. It was not only the Director that was very hands-on, but also, I think probably unique in my experience, the Commissioner herself was very hands-on. We would normally have allocated the work to a depute, with a senior investigator to oversee it, and basically trust them to get on with it. It wasn't that we didn't trust them in this case. It was that because this was clearly going to be a particularly complex and high-profile investigation, the Director, or indeed the Commissioner, and myself became involved from the very early stage.

8. I do not have any policing background. I have been asked about PIRC having some staff that had a policing background and others like me that had different professional experience and what impact this had on PIRC. I thought the mix was really healthy. We had people who had massive years of policing experience, who knew the right questions to ask, who knew the systems, but we also had people coming from quite different backgrounds. We had people from Trading Standards, from the Military Police, Fire Investigation, and myself, who had other skills that were to do with investigation, but not directly policing. I think we were able to kind of look, say, "Well, why do you behave in that particular way? Why do you go down that particular route?" Because sometimes it wasn't the best route to go down. I think that kind of challenge and mix of the professional backgrounds and skills was very healthy for the organisation.
9. I have been asked if the police officers that PIRC had contact with across the Sheku Bayoh investigation understood PIRC's role. I didn't personally have any contact with any of the police officers involved in this investigation. I don't recall it being raised as an issue by anyone at PIRC.
10. I have been asked what prior experience I had, particularly of PIRC investigations, into both deaths in police custody and deaths following police contact. I cannot recall the exact number – it would be whatever number of investigations that PIRC as an organisation had carried out by that point because, as I said, myself, and/or

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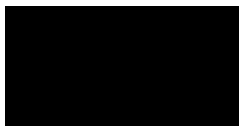


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the Director of Investigations would normally come in at a later stage of an investigation to review it so effectively, we were involved in all investigations at some point. However, I can't recall how many we as PIRC would have had at that stage.

11. I have been asked if this particular investigation was different from previous investigations PIRC had undertaken. I think it was different in that, while we allocated as usual a senior investigator to oversee the deputy investigator and the team, there was also a very hands-on role taken from the beginning by the Director of Investigations and by the Commissioner in a way that hadn't happened before. There was almost daily more detailed oversight of what was happening.
  
12. Everybody in the organisation was aware of almost everything that was happening every day, because at that point we were only an organisation of 20 or 30 people, and we had a daily morning briefing at which we heard a summary of what was happening with every investigation. For some investigations, we heard just a brief summary, a couple of lines or so, but for more serious, complex investigations the input would be a lot more. That was an opportunity for people like the Director of Investigations and myself to ask additional questions: "Have you thought about... are you going to..." and the Commissioner also attended those morning briefings once weekly So, as well as ongoing updates, that would be a point every single morning where everybody touched base, and we were updated.
  
13. Morning briefings varied depending on what we had on, so they could take anything up from 15 minutes to an hour. We moved our start time for the organisation an hour ahead – when initially set up we were a kind of 9 to 5 organisation. But we quickly realised when work started to come in that we really needed to be up and running by 9 o'clock. So, we made our start time 8 o'clock in the morning, so that we could have our briefings and people could get

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themselves prepared for the day. That change was probably made within the first three/four months of the organisation.

**Resourcing and establishment of PIRC**

- 14. I have been asked as at May 2015, if I feel PIRC had sufficient resources to carry out the investigation into the death of Sheku Bayoh. I did at that point, because we were still a relatively new organisation, so it took time for us to build up referrals from Crown. At the point at which the Sheku Bayoh investigation started, we didn't have the volume of work that we later had. When the Government established the organisation, they really had to kind of guess how much work was going to be involved. When the work grew, resources followed. At the time of the Sheku Bayoh investigation, I think we had enough resources, given the workload that we had at that time.
  
- 15. I have been asked if from May 2015 to around August 2016, I continued to feel that there was appropriate resourcing for PIRC in terms of funding, staffing, training and expertise. I would say yes - the only question I did recall in terms of funding was when we were looking for specialist expert opinion, because PIRC didn't have that kind of funding. I remember that was a discussion that happened with the Crown and with the Scottish Government to try and procure more funding for that. The funding was forthcoming. I don't recall a point where we wanted to procure some particular evidence from an expert and we couldn't afford to do it.
  
- 16. In terms of staff resources, we had enough resources over that period. I don't ever recall there being an action that couldn't be actioned, because we didn't have enough staff available to do it.
  
- 17. I have been asked if PIRC was well-placed from 1 April 2013 to fulfil its statutory obligations. I think we were well-placed as a team and as an organisation. What was difficult was that we were new, so we had to explain ourselves. We spent much of the first two or three years explaining who we were repeatedly to Police

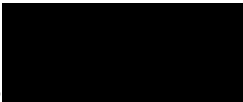
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Scotland and other organisations. We worked closely from an early stage with the Crown. We had meetings with Crown at least once a month to help them get to know and trust us. That was really useful, but it was a long, long road to get people more generally to understand what we were and what our remit was. The name of the organisation isn't particularly helpful because it doesn't clearly explain what the organisation is about.

18. I have been asked if this need to explain ourselves had any impact on PIRC and its work. I don't think so. Just that it was an added piece of work that we had to do. Everybody in the team shared responsibility for attending at conferences, courses, and meetings with other organisations to continually explain what we did. It wasn't that there was work that we weren't able to do because we also had this educational work about the role.
  
19. I have been asked if PIRC was appropriately independent from Police Scotland at that time. I would say absolutely. There was never any question in my mind about that, although I know that that was a major worry for a lot of people outside of PIRC. I think a lot of people, particularly the media, were concerned about the percentage of former police officers that were in the organisation but, in my experience, as soon as those officers had left Police Scotland and joined the PIRC, their loyalties were with the organisation that we were working for. I never came across a time when I felt that a former police officer was less than independent about the enquiries that they were undertaking. I think that's where my role was very helpful because I came from a different background, I was very alert to that possibility.
  
20. I have been asked if I felt that PRC had sufficient statutory powers for the investigations it was tasked to carry out. As it transpired with this particular investigation, which was unique, the fact that there was no duty of candour became a problem for a while. However, this had not been a problem before this investigation and wasn't with any subsequent investigations during my time with PIRC. I know that there's currently consultation about the inclusion of a duty of

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candour. I'd be interested to see how, if introduced, that works out, because obviously you'd have to balance that with police officers' other legal rights.

**Training**

- 21. I have been asked who at PIRC had responsibility for the training of the investigation side of the organisation. We had generic training that everyone was required to have, like health and safety, and data protection, and that kind of thing. Apart from that it was the responsibility of immediate line managers in the annual performance appraisals to identify any training gaps for people, and if there were enough people with the same training gaps, then we would arrange group training. If it was an individual need, we would arrange individual training.
  
- 22. I would have been responsible, for example, for identifying training needs for the three senior investigators that I directly line-managed and for whom I carried out performance appraisals. Likewise, the Director of Investigations carried out my performance appraisal.

**PIRC's on-call system**

- 23. Our system was that we had a small team on call 24/7 for a week at a time. It consisted of a deputy investigator, another two investigators, or an investigator and a trainee. Most of the time if they were called, it was a matter that could be dealt with over the phone or dealt with the next morning. It was very rare for there to be something major, and we felt that we couldn't keep huge numbers of people on call 24/7, one week in four, for something that very rarely happened out of office hours. So, we kept the small teams in place with the understanding that if anything major happened, we would do a phone-round of other staff to see who else was available to assist.
  
- 24. Every deputy senior investigator, if they were out on a call and experiencing any difficulty or if something was particularly complex, could phone an on-call

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manager for advice. The on-call manager rota was shared between the Director of Investigations, myself, and the three senior investigators. So, we did an on-call rota one week in five. On 3 May Ricky Casey was the on-call manager that the deputy investigator would have phoned.

- 25. I have been asked how common it was for staff that were not on the rota to be on call to be contacted out of hours. It didn't happen often at all. The chances of something happening out of hours that is of such magnitude that it involves a bigger team - it didn't happen that often.
- 26. I can recall one time when I was on call manager over a weekend when there was a death in custody, and, once it was clear that the incident would need more staff, I was able to phone round and, without much difficulty, pull a bigger team together on a Sunday morning.
- 27. I think we had to look at the practicalities of it, and we had to think of staff welfare. We felt it impractical and unfair to ask people to do on call 24/7 more often than was necessary.

**Initial involvement in the investigation**

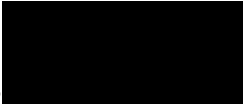
- 28. I have been asked when I first became aware of the incident at Hayfield Road. I remember this because it was the holiday weekend and I was down south visiting [REDACTED], and I got a phone call before 10 o'clock on the Sunday morning from Ricky Casey, the on-call manager. Keith Harrower was the 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

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didn't 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.”

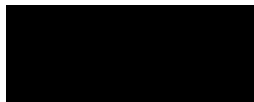
- 30. I can't remember if I had my work phone with me because I had to scramble around to find her phone number and then let her know. I think the only other involvement I had that day – because, as the on call manager, Ricky was dealing with it – was a phone call from the comms team sometime in the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

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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.

- 35. I have been asked if, looking beyond 3 May, I was responsible for allocating resources to the investigation. Yes - on Monday morning we looked at the workload because you wouldn't automatically expect whoever had happened to pick something up over the weekend because they were on-call to keep working with that. It would depend on what else they had and looking at the balance of workload across the six depute senior investigators, I thought that it was best allocated at that time to Billy, which is no reflection on Keith. I can't recall what else Keith had on at that time, but he clearly had other work on that meant that it needed to be allocated to somebody who had a bit more space.
- 36. I have been asked if, on 3 May, PIRC had sufficient resources to undertake what it needed to do in the first day. I would say yes. I'm confident that if Ricky had felt that between him and Keith that they hadn't enough staff to deal with the incident on that day that he would have contacted me or contacted the Director of Investigations to see if we could come up with any other solution.
- 37. I did not provide instructions to Keith Harrower, or Ricky Casey, or anyone else carrying out work on 3 May. I wouldn't have had them on call if I thought they weren't up to the job. I think these were very competent members of staff. I felt I had no need to tell them what to do.
- 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

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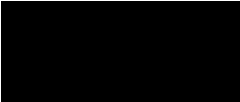
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something that happened over a weekend or a public holiday. That would not be because we expected her to actually start managing it, but because she was the most senior person in the organisation, and it would not be appropriate for her to be unaware of the matter and wrong-footed if someone contacted her.

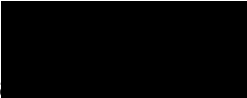
- 39. I did not see anything on the news or on social media that day about the incident. When the comms team phoned me, my recollection is that they just simply wanted a sign off on the very basic statement that “the PIRC has been instructed by the Crown to investigate....”

**Handover and allocation of work**

- 40. I have been asked about the briefing that I received from colleagues that had been active on 3 May. There was an expectation that, when anybody was on call and had had to deal with an incident, they would produce a written briefing for the next morning- whether that meant that they had to stay up late the night before or come in early in the morning. I can’t recall the exact process that happened in the morning of the 4<sup>th</sup> May. I would have been very quickly trying to identify – looking at the workload – what member of staff should take this over from the member of staff that had had it.
- 41. My first thought would have naturally been that the deputy scene investigator who had been on call should keep it, but then I must have looked and seen his workload and decided that it should go to someone else. I would then have arranged a meeting with depute and the senior investigator who’d been on call, the depute and senior investigator who would have oversight of the investigation moving forward, and myself. I can’t recall if John McSporran (the senior investigator that would oversee it) was in that holiday Monday. I think John Mitchell, the Director of Investigations, was in and he would have joined that meeting as well.

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- 42. I have been asked if it was my decision to move responsibility of the investigation effectively to William Little and John McSporrان. Given the high-profile nature of the investigation, I'm confident I would have discussed options with the Director of Investigations. I must have looked at the workload, seen that it was logical for the investigation to be undertaken going forward by somebody else other than Keith given his existing investigation workload.
  
- 43. I have been shown William Little's Inquiry statement (SBPI-00255) where he states that he believes that he spoke to me and Keith Harrower at 7.30am on 4 May. I don't recollect this. I'm not surprised that it was at 7.30am because I suspect we would all have been in much earlier than 8 that morning because of what had happened over the weekend.
  
- 44. My recollection is that Keith had prepared a briefing paper and would have talked to this. I can't remember anything other than that, and most of what I remember about that day is trying to allocate resources to this particular investigation, looking at the workload of all the other investigators to see who'd be best placed to help, to join Billy's team. We created an incident room, and it was very much about sorting out practicalities that day.
  
- 45. I have been shown a briefing note that was produced (PIRC-03694). I think Keith Harrower would have either come into work early to prepare it or prepared it the previous evening or night when he got home. We wouldn't normally pass a briefing note like this on to Crown. However, in this instance I think we might have done.
  
- 46. On 3rd May David Green had given verbal instructions to PIRC to investigate what had happened on that day. However, Keith's briefing note made it clear that he had become aware of events that had happened before that day, I made Crown aware of this. I cannot recall if I did so on 4<sup>th</sup> May verbally or by forwarding them a copy of the written briefing.

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47. I have been asked if the briefing note impacted PIRC's investigation in any way, or if at any point later in the investigation I recall noting that some of that initial information wasn't correct. It would be pretty standard for information to be amended as we get more evidence, as we interview more witnesses, and as we look at CCTV, dash cam footage, whichever. I don't know if I could recall any investigation where the initial briefing contained all the information and all the accurate information that would eventually appear in the final report. It is very much initial information, so I'm not surprised that there's information in there that turned out later to be inaccurate. The point of an investigation is to gather more information and to check evidence.

48. I have been shown some evidence given by DS Campbell to the Inquiry on day 49:


*A. I think -- sorry, I think the problem with the PIRC deployment at that stage, other than the resources, is that over the course of 24, 36 hours they changed the lead investigator. So Keith had --*

*Q. What issues did that cause?*

*A. Just obvious challenges, the fact is you're bringing someone on fresh into the investigation when you've been there for 12, 13 hours at that stage, you know what I mean, before that ... before Billy Little's appointed around that. So again, there was challenges with the fact that the change of a senior investigator from PIRC at such an early stage of a critical investigation would undoubtedly cause challenges.*

I'm surprised to hear him say that because, actually, I thought it was a very smooth transition between two very experienced, very capable members of staff. The whole point of a briefing is to make sure that the person who takes on the next stage of the investigation has as much information as the on-call person has available to him. I'm surprised he says that, and I would be interested to know

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what kind of difficulties it caused. I'm not aware of anybody at any point saying it caused a difficulty, so that is a bit of a surprise to me.

- 49. I have been asked if I had an awareness of what PIRC's priorities were on 4 May. PIRC's priorities were just to make sure that this investigation was as resourced as it could be, and that people were able to act as quickly as they could.
- 50. I have been asked about two Police Scotland briefings on 4 May. I can't recall if PIRC had any knowledge of these. I know that we have, on occasion, attended police briefings, but I'm really not sure that it's appropriate for PIRC to attend such briefings as a matter of course. I think doing so might affect PIRC's independence. Police Scotland's briefings are for Police Scotland staff.
- 51. I have been asked if most of my liaison would be with John McSparran and with William Little, who would themselves liaise with the investigators and the trainee investigators in their team. I don't think I would have directly told a member of staff to do something - it was Billy's responsibility or John's responsibility. I would have contact with investigators and the trainee investigators, obviously, at morning briefings where they would be updating on any actions they'd taken.

**Post-mortem**

- 52. I have been asked if I had any involvement on the PIRC side in discussions around the post-mortem of Sheku Bayoh, and the decisions that were taken in relation to it. I was aware that there had been difficulties because the family were not wanting to attend until other family members had arrived [REDACTED], but I'm also aware that it went ahead and I know that this caused Billy some concern and anxiety. However, Crown instructions as I recall were very clear. As an organisation, PIRC was investigating at the direction of Crown.
- 53. I have been asked if I spoke to Billy Little about the situation. I did, yes. Because it did concern Billy. I don't know whether in Billy's career he had ever come across

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a situation where, like this, the post-mortem went ahead without family members or someone else relevant being there. I know it caused him some anxiety, but he was equally aware that when Crown tells you to do something, you do it.

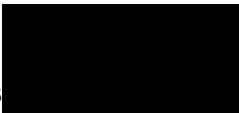
**Liaison with Police Scotland**

54. I have been asked if I had any role liaising with Police Scotland, particularly on 3 and 4 May. I did not. I was away on holiday on 3 May. On the 4 May I don't recollect any direct conversations at all with Police Scotland. My conversations, I think, were with Crown on the 4 and the 5 May.

55. I have been shown William Little's Inquiry statement in which he details a discussion he had with ACC Nicholson. William Little directed ACC Nicholson to speak to me about a matter that would require liaison with Crown, and states he was told by ACC Nicholson that he had already spoken to me and been directed to speak to William Little instead. William Little's evidence is that he directed ACC Nicholson back to me. (SBPI-00255 ) I have no recollection of speaking to Ruaraidh Nicholson at all I honestly can't remember because my focus that day was on getting agreement from Crown on the parameters of the PIRC investigation. I do recall that I asked Crown to inform Police Scotland that they had now instructed PIRC to extend the parameters to events prior to 3 May.

**Liaison with COPFS**

56. I have been asked about discussions with Crown in terms of who I spoke to and who initiated that contact. I think I started talking to John Logue on 4 or 5 May. I think he must have been the on-call fiscal. I remember saying to him that David Green had instructed us on the Sunday to only look at the events of the 3<sup>rd</sup>. It was becoming clear that there were very pertinent matters that had happened in the run-up that we needed to be looking at to ensure there was independence and that it really couldn't be two separate investigations ongoing. Crown agreed that verbally. I can't recall if they did so on 4 or 5 May. It's normal practice to

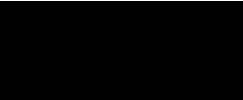
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receive verbal instructions followed two or three days later by confirmation in writing.

- 57. I have been asked if it was routine practice that we would be instructed by Crown on an investigation and feed back to them about the scope. I don't know if it had ever happened before that we'd asked them to extend the parameters of an investigation.
- 58. We were effectively the boots on the ground for Crown. They relied on us to provide them with information to help their decision-making.

**PIRC and Police Scotland**

- 59. I have been asked about Police Scotland's continuing involvement in the investigation. I can see why police felt that there were matters that had happened on the 2<sup>nd</sup> May that police should be looking into, because there had been reports of disturbances. It was a vacuum if you like for a little while until we got wider instructions from Crown to take overlooking into those matters. When I say vacuum, it sounds as if I'm saying that Crown should have from the outset given us these wider instructions, but of course they didn't have enough information at that point to give us wider instructions. It was when more information became available to them that they did so.
- 60. I have been asked about the perception that the family of Sheku Bayoh and the general public would have about the investigation, and who was carrying out what part of it. I certainly hoped that the family would feel reassured that an independent body was coming in to look at the wider events that had happened because I was aware that on the Monday that things had been very difficult with Police Scotland because it looked like the family had been given false information at that point. So, I was hoping that the family would be reassured that we were separate from Police Scotland and that we were independent. I don't recall how

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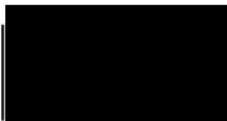
I was made aware of how things had been between Police Scotland and the family on the Monday.

61. I have been asked if I was made aware of anybody at Police Scotland having a concern about PIRC's handling of the investigation in the early days. I wasn't aware of it. Normally, if someone in Police Scotland had a problem with or concern about PIRC they would pass it up the line to a senior officer, usually a Deputy Chief Constable, to raise with the PIRC. I'm not aware of any senior officer contacting PIRC to raise concerns.
62. I have been asked if I was content with the support that PIRC was receiving from Police Scotland in the early days of the investigation. I don't know that we were looking for particular support in the early days. However, I recall that probably a week later, we looked for (and received) extensive support from Police Scotland when looking to stop cars as part of a witness appeal.

**Instructions from COPFS**

63. I have been asked what the legislative basis was upon which PIRC were instructed to investigate the incident by COPFS. There was a time when I could have told you off the top of my head, but I can't remember the exact part of the legislation now. But we were very clear on the legislative basis, because this wasn't our first instruction from Crown to investigate a death following police contact.
64. I am asked if legislative basis upon which PIRC were instructed to investigate the incident by COPFS changed at any point during the investigation. It did not change, as far as I am aware.

Signature of Witness



- 65. I have been asked if the legislative ground on which COPFS instructs PIRC makes any difference to the PIRC investigation or how PIRC approach it. Investigations are treated the same.
  
- 66. I have been asked if I am aware if the legislative ground on which COPFS instructs PIRC alters what PIRC are able to do in their investigation. I would say it is just the same. As far as I'm aware, the legislative basis of investigations remains the same. It's just the extent of the instructions that we have, and that can change during the course of the investigation, but still on the same legislative basis.
  
- 67. I have been asked about PIRC not receiving a formal written instruction from Crown on 3 May. Out of the working hours, it was very normal not to receive written instructions. It didn't impact our work. I don't think we ever received written instructions out of the working hours. It would be a verbal instruction followed up on the next working day or two by the written instruction. It did not impact how PIRC operated. We were always quite clear. I mean, this was two years on, and we were clear on the legislative basis that Crown was instructing us on. So, we were comfortable with that.
  
- 68. I think Crown were very responsive. As soon as we had more information, we made them aware, and they expanded the instructions.
  
- 69. I have been asked, across the whole of the investigation including subsequent letters of instruction from the Crown, if I have any views about the guidance from and responsiveness of the Crown. No, I think it was obviously a huge learning curve for me when I first started with the PIRC about how basically - you did what Crown tells you. So, that had become very much part and parcel - whatever your personal views are or whatever you might think, you know that that was your instructions, and they were lawful instructions, so you carried them out.

Signature of Witness



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70. On 5 May, there was then the letter from Stephen McGowan at the Crown, which expanded PIRC's terms of reference (COPFS-02539). I have been asked about the process of receiving initial instructions, and then the instructions being expanded. We were content because when David Green received a phone call to tell him that something had happened, he would only have had the most basic information available to him at that point. So, the instructions made absolute sense on the 3 May, and it was only as more information became available that we realised that we had to talk to Crown about the scope.

71. I have been asked if it has any impact on the investigation that initially the earlier time period sat with Police Scotland to investigate, and thereafter PIRC's terms of reference were expanded. I'm sure that it was very, very difficult for the family over that period because they were dealing with two organisations. You don't know what you don't know until you actually start investigating. So, I think it was unfortunate, but the reality is that you have to deal within this information at the time. Crown had to deal with the information they had available at the time, and it was only as more information became available that it made logical sense to have only one organisation deal with it.

72. I have been shown an email exchange between me, John Logue and Stephen McGowan on 4 and 5 May which contains discussions in relation to expansion of PIRC's terms of reference COPFS-03875. I am asked if, prior to John Logue's email at 18.38 on 4 May, there had there been any suggestion that PIRC's terms of reference be expanded. The correspondence begins with an email from me to John Logue attaching a briefing. I say in that email "as discussed" so, although I've no recollection of the conversation, I'd clearly had an earlier telephone conversation with him, and this was a formal follow-up.

73. John Logue replies and says, "We'll need to expand the PIRC investigation," and then I email on the 5 May providing an update as to the post-mortem, and then Stephen confirms there there'll be a formal letter of instruction to follow on 5 May. I think clearly the Crown will have agreed to change instructions at some point via

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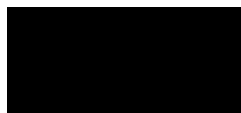
telephone conversation on the 4 May and that is just a formal acknowledgement of that.

- 74. I have been asked if I recall, at any point across the PIRC investigation, anybody at Crown raising a concern in relation to PIRC's handling of the investigation. I would say no, not at all.
- 75. I have been asked across the investigation and my involvement how I found the instructions received and the support that I received from the Crown. I was content with this; their instructions were clear.

**Investigation of issues of race**

- 76. I am shown a letter from Les Brown to Kate Frame on 2 September 2015 expanding PIRC's terms of reference (COPFS-02557). This letter included an instruction that the Commissioner confirm that "issues of race and whether there is any evidence of racial motivation is a primary focus in the PIRC investigation". I am asked if I had any involvement discussing this with Crown at all. I would say before we received that letter, no.
- 77. I have been asked if, before that letter arrived, anybody at PIRC as part of the investigation had considered if race was a factor. I have no recollection of anybody raising it as a factor.
- 78. I have been asked if in a PIRC investigation following a death in custody or death following police contact if the race or ethnicity of a deceased person was automatically considered. I would say that it would be case-by-case and evidence-led. If there had seemed to be evidence that would indicate that, we would follow that.
- 79. I have been asked if, before this investigation, I had any experience personally of an investigation where, in terms of the instructions, race was explicitly included

Signature of Witness



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as something that PIRC were asked to look into. This investigation was the first time in my professional investigatory experience.

80. I have been asked if I am aware of any other investigations in which race was a factor and included in Crown's instructions to PIRC. There certainly were not in the rest of the time that I worked with PIRC.

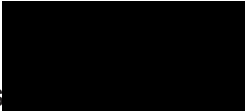
81. I have been asked if before this incident I had any experience of a death in custody or a death following police conduct where the deceased was someone who was from an ethnic minority. I think this would be the first time that the person involved with an incident is of an ethnic minority. I do remember we had an investigation involving a person from Eastern Europe who died, but I think that might have been after this matter. There was no other incident that I can recall.

82. I have been asked, when PIRC's terms of reference were expanded by Crown to include issues of race, what steps I or others at PIRC took to address this instruction. I do recall at one point we were asked, (possibly by Mr Anwar) to look at the numbers of complaints of racism by police officers in Fife and compare them to other police divisions, and that is a piece of work that we did. It wasn't a Crown instruction. I do recall that it was inconclusive because Police Scotland at that time didn't record complaints in a way that would have allowed you to do a comparison.

83. I have been asked if I have any views about the process that PIRC followed to look into that particular instruction from Crown. I've no recollection of whether we were asked to investigate whether there had been complaints of racism in relation to individual officers.

**Seizure of mobile phones**

84. I have been shown a note of a call I had with Les Brown on 6 May who was responding to a query from me in relation to the return of mobile phones. I note

Signature of Witness  .....

that “returning the phone prematurely might be viewed in a certain way. Defence solicitors may wish in future to examine the phone itself + not simply the download” (PIRC-03702). I had no recollection of this call. The note is contained in a pro-forma and was the way we made sure information was entered to the Clue 2 system. I assume I was referring to phones belonging to members of the public that we had taken because they held evidence. I have been asked what I thought Les Brown meant by all of his comments but I cannot speak to that.

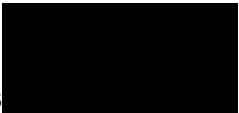
85. I have been asked what the purpose was of the examinations of the mobile phones. I can't recall whether there was more than one person had video evidence. I do recall one woman had looked out of a window and videoed part of the incident.

86. I have been asked what the legal basis was upon which these mobile phones had been seized. PIRC had all the powers granted to us by the Crown to seize evidence. I have been asked if there were any limits on what PIRC could do with the phone once they'd seized it. As far as I recall, PIRC were allowed to examine and download the material relevant to the incident, and not look at anything else other than that.

**PIRC morning briefings**

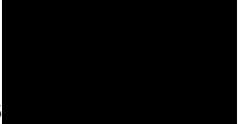
87. I have been asked if I would attend PIRC's morning briefings if I was available. (PIRC-04156) I would always, yes. The briefing would have been about a number of operations. As far as I recall, Billy would have taken the briefing minutes when it was his own operation or asked a member of his team to take them, and our other deputy investigators would have taken their separate minutes for their investigations. Everybody attended morning briefings.

88. I have been asked what my role was at a morning briefing. It would be, if it seemed like there was a line of enquiry that hadn't been followed or if people weren't being clear about it or if somebody had raised an issue of resources, where I had to do

Signature of Witness  .....

some reallocation of work to make sure that we had enough resources for a particular enquiry, or about obtaining resources, for example finance.

89. I have been asked about the minutes for a morning briefing on 7 May 2015 (PIRC-04156), within an update that I provided, it is noted that the enquiry was receiving a lot of “political interest”. I can’t exactly recall what I was referring to at the time. I do recall that there was an MP or MSP who I think had been raising a lot of questions. I have been asked if this had any impact on the investigation or on what PIRC had to deal with. I would say no. It wasn’t unusual for people to approach their MSP if they’d any issues.
90. I have been asked about the minutes for a morning briefing on 18 June 2015 (PIRC-04156), within an update that I provided “Michael Tate [sic] very proactive. Attended Parliament yesterday and spoke to a number of MSPs in relation to many of the side issues of this investigations [sic]”. Michael was the comms manager but I don’t recollect what this related to.
91. I have been asked generally what I recollect in terms of the media side of the investigation. I think it was a bit frustrating because we were generally limited to repeating simply that we’d been instructed by Crown to carry out an investigation. I think that Michael was having to try and communicate to the media that we weren’t trying to be obstructive. It was just that we were limited in what we could say.
92. I have been asked if I had any involvement in media liaison. I did in that all lines to the media had to be signed off by either myself or Director of Investigations. When I say they had to be signed off, they were generally very bland because we couldn’t say much.
93. I have been asked about the minutes for a morning briefing on 3 July 2015 (PIRC-04156), within an update I provided which reads “Crown have advised that the investigation may extend into criminal neglect of duty or attempt to pervert”. I have

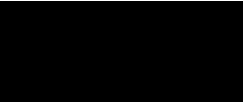
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been asked if I recall this or any discussions with Crown about extending the investigation in that way. I do not remember this. To my recollection, the investigation was not extended in this way.

94. I have been asked if it was normal, as in this case, that the Crown would discuss with PIRC extending an investigation before they formally did so. I would say yes. We had regular monthly meetings with Crown. Myself and Director of Investigations attended from PIRC. They were in person at the Crown Office on Ballater Street. From Crown, it tended to be the head of CAAPD and the head of the Fatalities Unit, David Green and Les Brown who would attend. I have been asked if the meetings were minuted. Those meetings weren't minuted.

**Officers' statements**

95. I have been asked if I had any involvement in obtaining operational statements from the officers that attended Hayfield Road and confirming their status as witnesses. No – I would have been aware of the attempts that first Keith and then Billy made. I'm aware of the regular correspondence between the Director of Investigations and the Federation lawyer, Peter Watson, to try and obtain those statements. So, we were all very aware about it, but I didn't directly have any involvement in that.
96. I have been asked if the Director of Investigations took on that liaising role because it fell within his remit or was there a discussion as to who would try and take that forward. I don't recall any discussion.
97. I have been asked, in addition to the Scottish Police Federation, if there were discussions ongoing between anyone at PIRC and Police Scotland about this or between anyone at PIRC and Crown. Crown was very much aware of the issue but legally their hands were tied. They obviously couldn't compel the officers to make statements. As far as I recollect senior officers in Police Scotland's line was,

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“Well, our hands are tied because the Federation has advised them not to make statements.”

98. I have been asked if we received any instruction or suggestions from the Crown specifically relating to the issue of officers providing statements. I would say no, they didn't give us any advice.

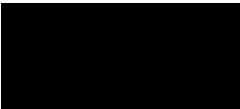
99. I have been asked if this issue, of officers not providing statements was something I'd ever encountered before in an investigation. Never, and certainly in the remaining time I was at PIRC, I never experienced it.

100. I have been asked if I ever encountered an investigation into officers following a death in police custody or following police contact where officers were treated as suspects, or where there was any possibility that they would be treated as suspects. I have not.

101. I have been asked in an investigation who is normally responsible for obtaining an operational statement from any officers involved. I would say, PIRC would initially ask Police Scotland to request officers supply PIRC with an operational statement. Thereafter, any follow up statement from an officer would be taken by a PIRC investigator.

102. I have been asked if I have any knowledge of what the circumstances would be when PIRC would decide that someone wasn't a witness, that they were a suspect in an investigation. It would be very serious, very serious indeed, to treat someone as a suspect. You would always start from the basis that, unless there's evidence to the contrary, people were witnesses, and only if you had very good reason to believe that situation had changed, would you then treat them and make them aware they were being treated as suspects.

103. In terms of who at PIRC would have the responsibility of deciding if a person was a witness or a suspect – it would be a very serious discussion. The deputy

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investigator would certainly have raised it with their senior investigator and I think in those situations with myself and the Director of Investigations, and we would have some discussion with Crown about it at that point.

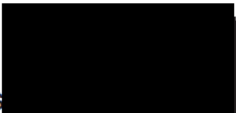
104. I have been asked if it was it ever discussed within PIRC changing the status of the officers in this particular case. I can't recall anybody saying to me that they were suspects.

105. I have been asked what the importance is for PIRC in gaining operational statements from police officers who are the nearest involved to an incident. PIRC needed statements to be able to triangulate evidence, but at that point we only had evidence from some members of the public. We had some CCTV and dashcam but had nine people - because I think the two detectives gave their statements - we had nine people who were key witnesses who hadn't provided their evidence, so it was a big gap in the investigation.

106. I have been asked how it impacted the investigation in those days before statements were received. We would continue to interview what witnesses we could and appealed for more witnesses, continued to look at CCTV footage, look for dashcam footage, whichever, but we were very conscious of the fact that there was this big chunk of evidence that was missing and therefore you couldn't start to begin triangulating with the evidence that you had.

107. I have been asked if PIRC had any powers to obtain statements where an officer was categorised as a witness and they weren't volunteering to provide a statement. PIRC had no powers.

108. On 2 June 2015, the legal adviser for the Scottish Police Federation (SPF), Peter Watson, issued a press lease on behalf of SPF (SPF-00019). I am shown this which reads: "The officers involved have never refused to provide statements. It was agreed at the outset with PIRC that they would revert to us when they wanted statements and when they were clear on the basis that statements were to be

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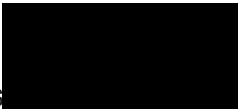
given. PIRC emailed me this morning at 10:46am asking for our assistance to organise interviews and we answered at 11:29am confirming we would be pleased to assist. Those are the facts.” I am asked if I have any recollection of this. I have some recollection of it. What I can’t recollect is the timings. John Mitchell continued to ask for statements and made it clear that the officers were witnesses. There was a lot of correspondence from the Director of Investigations to Peter Watson, but what I can’t recall are the dates around that and whether those dates pre-dated 2 June, and those would have made it clear that they were witnesses.

109. I have been asked if, on the occasion of this press release on 2 June, if there was any discussion within PIRC to making any comment or taking any action. I don’t recall, but it would not be normal for the PIRC to respond because again we are acting on the instructions of Crown, we don’t tend to be very proactive in terms of press releases. I have been shown a document containing press lines taken by PIRC (PIRC-03925). This document shows a reactive line from 4 June and which is headed “Reactive line in relation to SPF claim that PIRC only requested statements on 2 June.” I cannot recall this. All the letters that I referred to between John Mitchell and Peter Watson must have been over the course of those few weeks preceding that.

110. I have been asked what impact, if any, this press release had on PIRC’s investigation or how PIRC would be viewed. I mean PIRC came under various criticism. Public organisations come under a lot of criticism and obviously, it was frustrating for staff, but you can’t do anything about it. Most of the staff had worked for organisations where criticism was part of the job, so, you just have to get on with it.

**PC Paton’s Complaint**

111. I am shown a complaint made by PC Paton to PIRC on 8 June 2015 (PIRC-04007) I have a vague recollection of this. I am asked who was responsible for

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responding to complaints made to PIRC. Normally, that would be me, or I would've asked the relevant senior investigator to do it. I don't recall the outcome of this complaint.

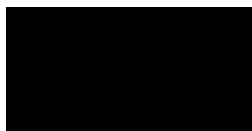
112. I am shown that I asked John McSporran to check what, of the information mentioned by PC Paton, was information PIRC had passed to the family's solicitor. John McSporran's email to me indicated that the family's solicitor and the SPF had placed information in the public domain and also alleged that there had been leaks from Police Scotland. I am asked what my experience was in relation to this. I honestly can't recollect that at all. I don't recollect us discussing leaks within Police Scotland. I mean, that's not to say it didn't happen. I just can't recollect.

113. I have been asked if I remember being concerned about leaks over the investigation at all. I mean, Police Scotland is a big organisation so I'm sure it must be really difficult to make sure all information is not subject to leaks. But I don't recall it being an issue generally in all the investigations we dealt with, that that was a particular problem.

**Liaison with Sierra Leone High Commission**

114. I have been asked if it was normal practice to liaise with a High Commission, a Consulate or an Embassy following the death in custody or following police contact with a foreign national in Scotland. When we started as an organisation, we developed a number of Standard Operating Procedures, we borrowed heavily on ones from Police Scotland and just adapted them to our needs because it seemed reasonable and sensible to do that. So, there must have been something in one of those Standard Operating Procedures on the process for dealing with the death of a foreign national. I can't recollect, but I know it's not something that I would have just done instinctively. It would have been something that was considered procedure.

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115. This is just my recollection. I tasked one of the investigators to do it, and I remember the kind of, frustration because we couldn't actually give the Commission the information that they wanted to be able to process the information, to process the death.

116. I am asked why we could not give them that. They said that they wouldn't take any details about the person's name or any information at all about it, until we could give them a cause of death and a reason he had been detained. I do remember that at that time we couldn't give them any of the results because we hadn't conveyed those to the family at that point, and obviously the family would take priority.

117. I have been asked if anyone at PIRC considered informing members of Mr Bayoh's family that the High Commission was to be contacted in this regard. Our contact would have been with their family solicitor because I think the family weren't particularly engaging with us at that point. I honestly can't recollect whether anyone informed either the family solicitor or the family directly that they were doing this.

118. I am asked if I would expect PIRC to have told the family that this contact was being made with the High Commission. I would have expected us to inform them that we would have to do this because it was part of a procedure.

119. I am shown a report that appeared in the Scottish Mail on Sunday on 25 October 2015 alleging that the police attempted to repatriate Mr Bayoh's body to Sierra Leone following his death (PS10004). I am also shown an email I sent to John Mitchell on 29 October 2015, identifying that the story was "completely false" and that it "may be prudent to make the media aware of the facts", before setting out a note of PIRC's correspondence with the Sierra Leone High Commission (PIRC-04024). When people hear Police Investigation and Review Commissioner, I think they sometimes just hear the first word. I suspect that's what's happened in this case, that the person in the High Commission heard the first word, "Police," and

Signature of Witness  .....

assumed that's who was phoning, despite the fact that I'm sure that the investigator will have fully explained to them who they were. I'm very surprised about the article, or I was very surprised, because we did put a lot in writing explaining who we were and why we were investigating. I am asked what steps PIRC took in relation to this press reporting. I can't recollect if we did anything. I have been shown a collection of press releases issued by PIRC (PIRC-03925) which does not reflect any press release issued around that time.

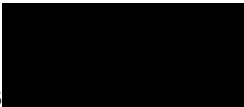
120. I am asked if, during the liaising with the High Commission, there was any discussion about repatriating the body of Sheku Bayoh. Absolutely not. At that point, there was an unascertained cause of death. It's not even conceivable that we would have raised that as an issue.

121. I have been asked who would be responsible for directing and making decisions about repatriation. I have no idea. I have no clue. It's not something I would even have known where to begin looking to try and work that out. At that point, we had an unexplained death.

122. I have been asked if, after this reporting, PIRC had any contact about this with the family or their solicitor. I can't recall, and if the FLOs had raised it, it would be there in the FLO log.

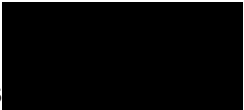
**Immigration status**

123. I am shown an email exchange between DS Patrick Campbell, DSI William Little asks DS Campbell to confirm if Mr Bayoh had any "refugee status" (PIRC-02662). I am asked, if there were any refugee status, if that would that have been relevant to PIRC's investigation at all. I have no idea. I have no recollection that that question was asked. I can't imagine it would have made any difference. I think it was just in terms of the Standard Operating Procedure, the issue was whether he was a British national or a Sierra Leone national in terms of whether there was a requirement to let his country know of his death.

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## Family liaison

124. I am asked what involvement I had in liaising with Mr Bayoh's family and their solicitor during the investigation. I never met the family. All meetings with the family at a senior level were between the Director of Investigations and the Commissioner. I don't recall ever having any contact with Mr Anwar. I could be wrong, but I don't recall having any. It was dealt with at the most senior level to make it clear to the family, I think, how very serious we were taking this investigation.
125. I am asked if anyone at PIRC spoke to me about the relationship with the family and gave me any understanding of how it was at various times. We were aware from morning briefings that there were difficulties at times, and I think one of the pieces of information included was about the sharing of the CCTV footage where the family didn't want any PIRC staff in particular to attend. So, we were all aware that there were some tensions with the family, but people don't always want our Family Liaison Officers involved. Some people engage with them more than others, and that's perfectly understandable.
126. I am asked if the relationship changed at all over the course of my involvement in the investigation. It's difficult to know, as I said, because I didn't directly meet with the family, so I couldn't speak to whether there was more of an understanding with the family, or an appreciation of what we were doing and what we were trying to do, so I'm not the best person to speak to that.
127. I am shown an email from me to Les Brown on 7 October (PIRC-02768) that relates to the family viewing CCTV footage and what PIRC staff would attend. My recollection is that the Family Liaison Officer himself had said to me that he would feel vulnerable in this situation, which I totally accepted. It was my job as a manager to support staff and I agree with him that this was an unreasonable request of us to ask him to go into that situation. This was clearly going to be a distressing experience for the family. In such distressing moments, families can

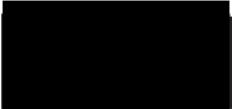
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sometimes misinterpret what people are saying to them. If this happened, as a lone worker, the Family Liaison Officer would have no-one to support his perception of what he had said. I think Kevin Rooney was the Family Liaison Officer. I can't definitively remember. I think Alistair Lewis was the other one. I am told that initially Alistair Lewis and John Clerkin were appointed as Family Liaison Officers. I don't know whether there was a point where Kevin took over from John, and that could be for a number of reasons. I can't recollect what those reasons might have been. It could be illness or sick leave.

128. I have been asked if it was normal for the Commissioner to meet with the family of a deceased during an investigation. Absolutely not. That was the first time it had happened, and as far as I'm aware it was the only time it happened in the time I was there. I am asked if there were benefits to having that meeting. I would say, you'd have to ask the Commissioner. I couldn't speak to that.

129. I have been asked for my understanding of the relationship between Mr Bayoh's family's solicitor and PIRC and if it changed over time. At times I think it was possibly a bit strained. There was a document the Commissioner had asked me to look at an issue with the contact with him over a particular month (PIRC-04016(a)). I am shown the email in which I passed this document to the Commissioner, Kate Frame, on 1 July 2015 "as requested" (PIRC-02492). I don't actually recollect this, but I'm assuming that she asked me because Mr Anwar had raised some concerns that he hadn't had as much contact with PIRC during that month as he would've liked, and she was just checking out what we had and hadn't done.

130. I do recall asking one of the FLOs – again, I can't remember which one – to go through the FLO log and check what contact we'd had with Mr Anwar during this month. I can only assume I was asked to do this by the Commissioner because Mr Anwar had raised some concern with that. I think it would've been drafted by the FLOs. I don't recall having any input into drafting. I would have asked them to go through the log and send what they had.

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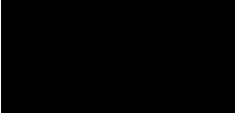
131. I am shown an email sent by John McSporrان to me on 2 July 2015 (PIRC-01873). In this email John McSporrان comments that “We need to get Keith’s paper to Crown as soon as possible and not have our inquiry dictated by the family solicitor.” I have been asked for my views were on this. I can’t recollect this email. You would have to ask John McSporrان. I can’t surmise what he might have been thinking.

132. I have been asked what issues might have been encountered in corresponding with Mr Anwar. I honestly can’t recall. I’m just assuming from the fact that I’ve been asked to do this that there had been some issue. I have been asked if anyone from PIRC at any point said to Mr Anwar, “We’re having difficulty liaising with you and contacting the family.” Not as far as I’m aware, but it might be in one of the records, but I can’t recall.

133. I have been asked if correspondence or communication issues impacted the investigation at all. I couldn’t recall until I looked at that FLO log, but it did seem to raise issues in getting some evidence from the family, in getting statements from the family. The lack of response created some sort of delay.

**Expert witnesses**

134. I have been asked what involvement I had in identifying, selecting or instructing expert witnesses. I didn’t do any instructing. In identifying them, I do recall suggesting that we looked at the Royal College of Physicians, because that seemed the most obvious place where we’d find experts. Certainly, this suggestion produced someone, but I can’t remember who. I think it was the chair, of the Royal College of Physicians, but I can’t remember who. The Royal College of Physicians president is the one I recognise. That’s the only one I recall recommending because that seems an obvious route to go down.

Signature of Witness  .....

135. I have been asked if I have any knowledge about how expert witnesses were identified and selected across PIRC generally or who was doing that work. It wouldn't be one person. I think more than one person would suggest experts, for example, "I'm aware of from a previous investigation," or, "I'm aware of, I've heard of," so it would be suggested as a name and then someone would check out their credentials. It was very much people making suggestions because it wasn't as if we had access to a directory of expert witnesses that would encompass all the varied number of issues that we needed expert opinion on, for example, the resuscitation, the toxicology, the heart.

136. I have been asked if this was the first case at PIRC I'd worked on where expert opinion had been sought. Yes, it was the first one. As far as I'm aware, there weren't any others, certainly in the time I was there, it was never asked for.

137. I have been asked what Standard Operating Procedures, guidance or case law that PIRC would consider when it was going through the process of selecting and instructing expert witnesses. All I'm aware of is that we sought Crown's permission, Crown's instruction to do this. We didn't do it without first getting the approval for that course of action.

138. I have been asked if I had any role in the selection or instruction of Dr Karch. I recollect either John McSporran or Billy Little going down to meet him in London to give him the relevant information after Crown had agreed to include him as an expert witness. I have been asked if I know how he became involved or who suggested him as an expert. I have no idea. I can't recollect who would've suggested because we were all throwing ideas in.

139. I have been asked if John McSporran undertook a trip to America to locate potential experts. That would be news to me. I didn't think I would forget something like that. If it has, it's gone right out of my brain completely. I would be astounded if we'd paid for a trip to America for him.

Signature of Witness



140. I have been asked what role the Commissioner took in identifying, selecting and instructing witnesses. I have been shown an email from the Commissioner to me on 30 June 2015 (PIRC-03464) suggesting two potential experts. Like the rest of us, I think she would just be searching her memory bases, her experience, and identifying people that she'd either worked with or heard through a previous work experience that might be useful. I can only assume that. You'd have to ask her where she heard about those people. I don't recall discussing this with her actually. I have no recollection whatsoever of this email.

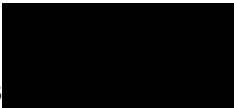
141. I have been shown a letter I sent to Professor Crane regarding the delay in receiving his report (PIRC-03429(a)) on 18 April 2016. I have been asked if this delay impacted PIRC's investigation. I do remember this. It only didn't affect us because we were looking for a number of expert reports, so it wouldn't have impacted. It was a frustration, but I don't recall it impacting the timeline.

142. I have been asked if there were any other factors that impacted the timing of the completion and the investigation and delivery of the report to Crown. In August 2015, no. In fact, I think the time scales are reasonable for that first report. The second one, I think in August 2016, the supplementary report. If you're looking at quite a number of lines of enquiry, plus having to get hold of a number of expert witnesses, that was always going to take time, so again I don't think a year seems a long time. I don't think it's an unreasonable length of time.

**Expert witness package**

143. I have been shown an expert witness package sent from the Commissioner to the Crown (COPFS-06005). I have been asked if I had any role in compiling this package. I did not. I presume it was done by a combination of Billy and John McSporran.

144. We wouldn't have recommended those experts in isolation. We would have taken it up the line. I'm sure that myself, the Director of Investigations, and the

Signature of Witness  .....

Commissioner were aware of all those names before they were submitted. Something like this would not have gone out of the building without going to the Commissioner.

145. I have been told that in March 2017, it was identified by COPFS that the expert witness package prepared by PIRC for earlier experts contained an incomplete version of Ashley Wyse's statement, as text had been omitted from the typed version of Ms Wyse's statement. I have no recollection of this, I left PIRC on 3 March 2017.

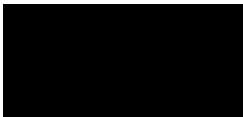
146. I have been asked if this issue with Ashley Wyse's statement or the requests made by Crown for PIRC to carry out further investigatory steps after August 2016 caused any concern for me as to the accuracy of the report or the thoroughness of the PIRC investigation. I would say it was absolutely normal, to be expected. As Crown reviews a report - and sometimes it takes some time to review it, to give it proper consideration - it is totally expected that you will receive other instructions.

**Decision not to prosecute**

147. I have been asked when I became aware of the decision not to prosecute any person involved in the incident. I would say I think this was after I left PIRC.

**Investigation of intelligence files**

148. I have been asked about the instruction from Crown to PIRC to investigate potential contraventions of the Data Protection Act 1998 in relation to information held or searches run within Police Scotland that concerned the family and their solicitor. I would say that this rings some bells with me, but I cannot recollect what actions resulted from this instruction.

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**End of involvement and PIRC report to Crown**

149. I have been asked if my involvement in the investigation continued until the point of my retirement. I would say yes.

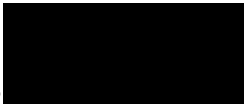
150. I have been asked if I had any involvement in drafting the PIRC report that was sent to Crown in 2016. I would've probably proofread it. I wouldn't have had any involvement in terms of the drafting of it. That would've been Billy and John McSporran. It would have gone to the Commissioner as reports that were going to Crown went to the Commissioner before they left the building.

**Record keeping**

151. I have been asked if I prepared a self-statement while I was working at PIRC. I don't think I did. If I did do a statement, it would be in the CLUE 2 system.

152. I have been asked if I kept a notebook while working at PIRC. If I kept rough notes, once they were in whatever formal system they should be in, either in a form or in the computer system, I shredded my notes. I'm really focused on data protection. You provided me with some extracts from Kareen Pattenden's notebook in which she ends her entries by saying she finished doing it on my instruction. I tried to get data protection principles into people's minds, that if you keep something written, then it should be in a recordable format, either paper or electronic, where it can be subject to data protection principles, where it can be reviewed, where it's time limited. You can't just keep notebooks, like a daybook, that's got a mixture of investigations in it with people's personal details in it and just keep that indefinitely - kind of independently. Any record keeping has to be subject to data protection principles, so I didn't keep a separate daybook or notebook. Any rough notes were shredded once it was in the formal system.

153. I am asked if others at PIRC keep notebooks. I would say initially. It took me a while to realise that people, I think because, in their previous working lives, pre

Signature of Witness  .....

current data protection, part and parcel of their training was to keep these daybooks. But I was very clear, you can keep a notebook relating to your investigation, and then log that and it'll be subject to review with all other material, but you can't just keep a kind of informal notebook of what you do on a day-to-day basis because that's not subject to data protection principles.

**Training**

154. I have been asked who had responsibility for a person's training at PIRC and who would be responsible for mine. This was a matter for a person's direct manager. John Mitchell as my manager would be responsible for training that I might need. I would be responsible for senior investigators that I managed.

155. I have been asked in 2015 who at PIRC had overall responsibility for training at PIRC. Much staff training was bought in, or requested from, external trainers from other organisations. For example, I recall that at least one equality and diversity training event was provided by someone sourced via PIRC's firm of solicitors. I can't recall details of what their role was. We were also members of a training group with our equivalent organisations in the rest of the UK and Eire (the then IPCC etc). I can't recall details of what joint training we arranged.

156. I have been asked, as at 2015, I felt appropriately trained and experienced for my role at PIRC. Yes, because I wasn't going to emulate being a trained police detective. They had recruited people who had that skillset. I had been recruited for my experience as a manager and as somebody who had also experience in being able to analyse information.

157. I have been asked if I received training whilst at PIRC that covered equality and diversity issues. Yes, we had training. I have been shown a document reflecting training I received at PIRC (PIRC-04577). We provided the training to all staff on equality and diversity very early doors. I can't recall the content of the training. I mean, we're talking 10 years ago now so I don't recall.

Signature of Witness  .....

158. I am asked if I received refresher training on these issues while at PIRC. I had some training on equalities in October 2014. That will be the refresher training.


159. I have been asked what guidance or reference materials were available to PIRC as it was investigating the issue of race in relation to the death of Sheku Bayoh - both in terms of anything that was already existing at PIRC or any guidance that anyone went externally to get. I have no recollection of us having any such guidance.

160. I have been asked if there is any training or guidance that I think would have assisted me particularly in my involvement in the investigation. No, I can't think of anything particularly. I can't think that there was anything that we did or didn't do that was impacted on by some gap.

161. I have been asked if there was any process within PIRC to assess lessons learned from an investigation. Yes, we did. We had kind of review workshops. These were very informal, to make people feel relaxed, just to discuss what we thought that we could've done better in various investigations. I can't recollect if they were minuted.

162. I have been asked if such a workshop took place following this investigation. I don't recall whether we had one specifically in relation to this investigation or whether it would have been discussed as part of more general informal workshop., They would happen periodically, but I can't really recall how many we had.

163. I have been asked if I was content with the support that I received from colleagues at PIRC, including people that were senior to me across the investigation. I had very good support from my direct line manager.

Signature of Witness  .....

**Health and Safety Executive**

164. I have been asked if I had any involvement in PIRC's contact with the Health and Safety Executive. I have no recollection of this. I don't think I have ever worked on an investigation with PIRC and the Health and Safety Executive working in tandem.

**Race**

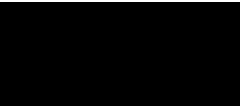
165. I have been asked if Sheku Bayoh's race a factor in any of my decisions and actions in the investigation. I would say absolutely not consciously, and obviously I can't speak to whether there might have been some unconscious or subconscious influence, but certainly it was never consciously an issue for myself or, as far as I'm aware, any member of the team.

166. I have been asked if PIRC recorded the race or ethnicity of the deceased person who were the subject of a PIRC investigation following a death in police custody or death following police contact. As I've said, in the time I worked at PIRC, I think that Mr Bayoh was the only one - apart from the Eastern European man who I previously –who was not white, Scottish. I can't recollect whether our admin kept that kind of information.

167. I have been asked if I had training while I was at PIRC about investigating anything to do with race in particular. I did not.

168. I have been asked any policies or practices or Standard Operating Procedures at PIRC changed as a result the investigation. I don't recall us changing anything.

169. I have been asked if I think PIRC was sufficiently equipped to investigate the issue of race as it was tasked to do so by the Crown. That's a difficult question to answer. At the time, I didn't think that we had any issues and, to be honest, I couldn't really say now that we're looking back. It's not something I've ever

Signature of Witness  .....



thought “We should have had this” or “Maybe if we’d had this, we would’ve done this differently.”

170. I have been asked if anyone at PIRC gave consideration to how another organisation might approach such an instruction, such as the then-IPCC acting in England and Wales. As far as I am aware, no.

**Public Inquiry**

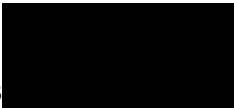
171. I have been asked when I became aware that there would be a public inquiry into the death of Sheku Bayoh and the following investigation. That was after I left PIRC.

172. I have been asked if I have been following the Inquiry at all or seen any of the evidence and if my recollection has been impacted by this at all. All I’ve read is the kind of summary that we get on BBC News, but that is not in any great detail. It’s difficult because, after reading the documents sent to me before this interview, you’re treading this balance between it being a genuine memory and a memory influenced by something someone else has said or written.

**Reflection**

173. I have been asked if my actions and decisions in relation to the investigation were consistent with my normal practice and PIRC’s normal practice. Absolutely. I mean, obviously it’s a bit more complex because of the media profile and we did have more involvement of more senior managers and the Commissioner, but I don’t think any actions we took were any different than we had taken before or that we took after. I have no sense at all that we weren’t behaving the way we would’ve normally.

174. I have been asked if there any significant difficulties or challenges that I encountered across my role in the investigation. In my role, I don’t think I

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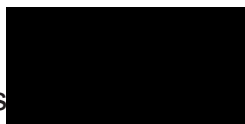
experienced any challenges because my role wasn't, for example, very directly having to deal with a bereaved family. I didn't have any of those kind of direct contact experiences. Mine were more about making sure that we had enough staff, to make sure that staff were supported, to make sure that we had enough resources and, as I said before, the Scottish Government were forthcoming with extra funding when they were for the expert witnesses, we had enough staff. I don't think I personally faced any problems.

175. I have been asked if there is anything, knowing what I know now, I look back on and think I could have done differently. We're very good at kind of ruminating on the past and thinking what we could've done differently. This hasn't been one of those cases. From my perspective, that's not to say that there wouldn't have been things that could've been done differently in the investigation but, from my perspective, I haven't thought, "I wish we'd done this," or, "I wish we hadn't done that."

176. I have been asked if there is anything in relation to the investigation or my involvement in it that I would like to add. Not that I can think of. Because of the quite discrete nature of my role in this, I'm not sure that I've been able to give as wide a perspective, but, no, I can't think that there's anything else that I want to add.

177. 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



November 17, 2023 | 9:51 AM GMT

.....Date.....