



**Statement in Response to Rule 8 Request by Sheku Bayoh Public Inquiry -  
MR WILLIAM LITTLE**

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**Acquaintance with Police Scotland officers**

- 1. Prior to 3 May 2015, did you have any contact with or knowledge of the following Police Scotland officers: Craig Walker, Alan Paton, Nicole Short, Ashley Tomlinson, Alan Smith, Kayleigh Good, Daniel Gibson, James McDonough and Scott Maxwell?**

**Response:** NO- I answered this question in the witness statement I provided during precognition on 4 November and 20 December 2022.

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2. **Prior to 3 May 2015, did you have any contact with or knowledge of the Police Scotland officers you encountered in the course of the PIRC investigation in addition to Detective Chief Superintendent Patrick Campbell? Please include detail as to how and when you met them, and your relationship at as May 2015.**

**Response:** My recollection is that the officers I had prior knowledge of are

**ACC R. Nicolson.** I first met Mr Nicolson when I joined Strathclyde Police Fraud squad as Detective Sergeant and he was the Detective Chief Inspector in charge of this Department. He remained the head of this department for a number of years. During this spell I worked with him on a number of investigation which included the investigation into the actions of [REDACTED]. I had no relationship with him other than he was a former manager who I engaged with on occasions through my different roles until I retired from Strathclyde Police in 2009. I did approach him by email to see if he would consent to be a referee when I applied for the role of Deputy Senior Investigator with PIRC.

**Detective Superintendent Kenneth Dewar:** Prior to 2015 I had a passing awareness of him throughout my police career although my recollection is that I never worked with him at any time whilst I was in the Police. I had no relationship with him.

3. **As at 3 May 2015, was there any policy or guidance for PIRC staff who were acquainted with a Police Scotland officer that they encountered in their PIRC role?**

**Response:** PIRC has and had at that time a code of conduct, the guidance in general was that if an employee become aware of an area of conflict which included any acquaintance this should be discussed with their line manager and an agreement reached as to what involvement if any that employee would have in an investigation.

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4. **As at 3 May 2015, was there any process within PIRC for formally recording that a PIRC staff member was acquainted with a Police Scotland officer?**

**Response:** Not as such PIRC did and continues to maintain a conflict of interest register

**PIRC structuring and resources**

5. **How is being an investigator in the PIRC different to being a police officer?**

**Response:** There is a difference between that of a general police officer to that of a PIRC investigator. A general police officer is required to guard watch and patrol to protect property and preserve life. PIRC investigators through legislation have the same powers of a police officers but only whilst they are undertaking PIRC investigations. PIRC Investigators will receive specific terms of reference from Crown Office and be instructed to undertake an investigation, but this investigation can only be conducted against serving police officers.

There are similarities between the roles when an investigation is being undertaken. They both require good communication skills, thorough knowledge of their powers and that of the law. Both require to be trained in a host of skills which will include but not be exclusive too, taking of witness statements, different types of interviewing, evidence gathering, preservations of incident scenes, understanding of forensics and forensic opportunities.

6. **What training did you have for the position of Deputy Senior Investigator within PIRC? Please include details as to any training undertaken at the beginning of your employment with PIRC and any training undertaken during your role?**

**Response:** When I joined PIRC I had previously been employed for 29 years as a police officer with Strathclyde Police. In my earlier statement to the Public Inquiry I outlined the roles I performed and the experience I gained. This was principally as an investigator, which was latterly as a Witness Senior Investigating Officer or Deputy Senior

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Investigating Officer in major complex investigations. Upon retirement I also worked in the role as a civilian Senior Investigating Officer for the States of Jersey Police where I took charge of a team of investigators which investigated a number of unresolved matters which included Homicide, Sexual Crimes and Missing Persons.

Immediately upon taking up the position of Deputy Senior Investigator I was not given any specific training other than being provide with an overview from my managers on the role and legislative requirements.

I did undertake different training throughout my PIRC career which is documented within PIRC training records. This included

**2013 to 2014**

Inhouse Refresher course on MIRSAP procedures

Training on CLUE 2 System

Road Traffic Collision Event with Strathclyde Fire and Rescue

Pursuit Management Training

Data Protection Training

Training re Fatal Accident Inquiries and Deaths Investigation in Scotland

Personal Development- Major crime review of IOPC Hillsborough Investigation.

National Road Policing SIO Seminar.

Familiarisation from COPFS on Criminal Justice (Scotland) Bill 2013.

Tactical Firearms Commander Course, Jackton. National Decision Model one day input

**2014 to 2015**

CLUE 2 Refresher Training

Plain English Course

Post Incident Manager Awareness

FOISA Awareness

Equalities

PIM Exercise with Police Scotland

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Corroboration discussion with Lord Bonomy  
Social media training  
New Psychoactive Substances Awareness.

**2015 to 2016**

COPFS Input re Serious Sexual Crime Unit

**2016 to 2017**

DPA Training  
Operational Safety Training  
Commenced Management Development Program ( 2 year program) held in  
conjunction with COPFS  
Equality and Diversity

**2017 to 2018**

FAI training in conjunction with SFIU  
Plain English Training  
Criminal Justice Act  
Criminal Justice Act Supervisory & Custody Training  
Forensic Awareness Day at SPA Gartcosh

**2018 to 2019**

Taser Awareness  
Sexual Offences Liaison Officer Awareness  
Recruitment Training  
GDPR Training  
Criminal Justice Act Station procedure

**2019 to 2020**

CLUE 3 Training  
Business Continuity Training  
THRIVE Training

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Post Incident Procedure Training

MORR Training

FOISA Training

**2020 to 2021**

Manual Handling

Driver awareness

Unconscious Bias

Slip, Trip etc

Post Incident procedure

Flexi System Awareness

**2021 to 2022**

Unconscious Bias

Hybrid Management

**2022 to 2023**

Equality Diversity and Inclusion Delivered by ACAS

7. **Did you feel adequately trained and experienced to carry out this role?  
Please explain why, or why not.**

**Response:** I felt more than adequately trained and experienced to carry out the role of Deputy Senior Investigator. The function of this role was to be responsible for a team of investigators who undertook investigations of an independent nature into policing bodies operating in Scotland. Prior to my employment with PIRC I had served for 29 years as a Police Officer with Strathclyde Police, the majority of this service being within the CID. During that service I had been involved in numerous investigations into incidents of Homicide, Deaths of an unexplained nature, Sexual Crime, Robbery, Missing Persons, Thefts.

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I also had experience of investigating large organisations, incidents of financial crime as well as working with law enforcement within foreign jurisdictions. I had also undertaken and been involved in investigation of crimes committed by serving police officers and staff during this period. I am a trained Senior Investigating Officer with experience of leading and also being the Deputy SIO on a number of large scale investigations during my time within the police as well as conducting reviews of homicide investigations.

**8. How do you satisfy yourself that you are competent to carry out your role?**

**Response:** As per my answer at Point 7 and also the fact that I was subject to organisation staff appraisals which would have highlighted any concerns that the organisation had in my ability to perform the role(s) I was undertaking.

**9. Did you, in your role as Deputy Senior Investigator, give consideration to the legal obligations incumbent on PIRC during an investigation? What do you consider these to be, if any?**

**Response:** This is a consideration I give during the course of every investigation. I had to consider that the matter being investigated and also who was being investigated was consistent with the powers conferred within Police, Public Order and Criminal Justice (Scotland) Act 2006 and The Police Investigation and Review Commissioner Regulation 2013. I also must ensure that the powers conferred on PIRC investigators are complied with.

**10. With specific reference to May 2015, did you feel PIRC had sufficient resources to carry out the investigation as instructed by the Crown Office and Procurator Fiscal Service (COPFS)? If not, please provide detail as to what resources were lacking and any impact of this.**

**Response:** In providing this response I must highlight that I was not responsible or played any part in determining the resources that were available in May 2015.

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Upon being told by John Mitchell that I was to undertake this investigation and even at that early stage being aware that this was one that required a different response to any death investigation undertaken by PIRC to date. I instigated a structure for this investigation in line with that which I had been trained to undertake. I made use of all the resources available within the investigation department which at that time numbered I recall as being 22 members of staff. Several members of staff were asked to multi task in their roles. The number of staff available proved challenging and I recall that I asked that our Reviews Section within PIRC be transferred to myself to help support the staff I had.

The challenge with this resourcing issue is that enquiries were taking longer to be completed, staff were continually having to work long hours. Enquiries were remaining unallocated for longer as I had no staff available. Full handover of information from Police Scotland was not as timeously as would have been preferred.

This was exacerbated by the additional instructions being received from COPFS.

My recollection is that existing PIRC investigations were sisted to prioritise this incident and only one member of staff was allocated to manage any new referrals/instructions which were still being submitted to PIRC.

**11. Between May 2015 - August 2016, do you feel that there was adequate resourcing for PIRC in terms of:**

- 1.11.1. Funding;**
- 1.11.2. Staffing numbers;**
- 1.11.3. Training opportunities; and**
- 1.11.4. Expertise of staff.**

**Response:** I was not responsible in any way during that period for any of the aspects which you have identified and feel that this is best answered by people who were in PIRC Senior management at that time.

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I will comment that the PIRC investigation staff employed at the time of this incident had a variety of skills and experience which were necessary during the course of the investigation. Following this incident and that of the investigation into the death of [REDACTED] and [REDACTED], PIRC received additional funding that enabled the employment of more staff.

12. **As at 1 April 2013, how prepared was PIRC to commence carrying out its statutory functions? Please provide full details of any areas in which you consider PIRC was unprepared to fulfil its statutory functions at that time.**

**Response:** I started with PIRC on 1 March 2013 and it felt like an organisation that had been pulled together in a hurry. However the experience and various skillsets of the people in place by 1 April 2013 ensured that it could meet its statutory functions.

13. **Do you feel that PIRC has sufficient statutory powers to carry out the investigations it is instructed to undertake?**

**Response:** Yes

14. **Do you have any comments to make as to the system of the PIRC on-call arrangements for staff? In May 2015, how common was it for PIRC staff that were not on call to be asked to attend work and immediately participate in an investigation? In circumstances where staff who are not on call are asked to attend work, how are those staff chosen?**

**Response:** All PIRC investigation staff are required to participate in the on call system that involves a rota which in May 2015 was 1 week in 6. This was based on the six investigation team structure. The majority of time this response was adequate to provide a PIRC response to out of hours events. It was and still is rare that you had to seek additional staff who are not scheduled to be on call and normally this is because of the requirement for a particular skill set.

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15. **As a police officer, you achieved the rank of detective inspector (PIRC-04224). When leading a PIRC investigation, you may be required to liaise with and direct police officers of a senior rank senior. What impact, if any, does this have on your ability to lead a PIRC investigation and provide direction to officers from Police Scotland?**

**Response:** None

**Supervision**

16. **As a team leader, you managed two people. Who were these employees? Please provide details as to how you supervised these individuals. Did you conduct annual appraisals? If so, were notes taken?**

**Response:** My recollection is that in May 2015 I had line management responsibility for Ross Stewart and Stuart Taylor. Appraisals were undertaken on a six monthly basis with a yearly final report. These were passed to our HR department.

17. **Who was your line manager or supervisor? Did you have an annual appraisal? If so, were notes taken?**

**Response:** In May 2015 my recollection is that I was supervised by Marcus Mitterer who was then a Senior Investigator with PIRC. Again appraisals were conducted every six months and all paperwork would be retained by PIRC HR Department

18. **PIRC's Family Liaison Officer SOP states that the SI/DSI should hold regular welfare meetings with FLOs throughout the course of their deployment (PIRC-03885, p.6). Did you have regular welfare meetings with either of the assigned FLOs in this case?**

**Response:** Yes I did, at the commencement of the investigation I would have met with the FLO's on a daily basis moving to a less frequent period. On every occasion I would have asked after their welfare.

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19. **An Inquiry witnesses has commented on the manner and behaviour of PIRC investigators, Ross Stewart and Brian Dodd, during witness interviews, describing themselves feeling “under duress” and there being “a lot of bad feeling” when providing a statement to PIRC (SBPI-00007). Were you aware of any issues, or did you have any concerns about the manner and behaviour of investigators as they conducted themselves taking witness statements? If so, what were these issues and what concerns did you have? Having read the comments in paragraph 110 of SBPI-00007 what are your thoughts on what is described by the witness? Do you have concerns that a witness could be made to feel as described by investigators from the PIRC?**

**Response:** I was unaware of any issues involving the PIRC Investigators when taking a statement from this witness and I had no reason to have any concerns regarding the behaviour of any of the Investigators.

20. **If there were any issues, what, if any, processes were in place that would highlight these to you, other than investigators coming to you themselves or speaking to you about their colleagues?**

**Response:** My recollection is that in May 2015 PIRC had a complaint process which is similar to that which is in place now. PIRC has a public website which documents how a person can raise a complaint against any PIRC staff.

**PIRC organisational experience**

21. **Do you feel that your former role as a police officer had any advantages or disadvantages for your work at PIRC? If so, please provide full details.**

**Response:**

My previous employment as a police officer and also that of a civilian SIO provided an advantage to my work within PIRC. I brought a wealth of experience in undertaking and managing investigations particularly of a serious nature.

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22. **In 2015-2016 PIRC had various staff members who had previously held roles within the police. Do you feel that PIRC as an organisation was impacted positively or negatively by staff having held roles within the police? Please provide details as to how.**

**Response:** I believe that PIRC benefitted from having staff who had been previously been police officers they brought a skill set that is not required or difficult to obtain in other organisations that undertake investigations. This was however supplemented by a number of staff who had previously worked in investigatory roles with HM Forces, Trading Standards, Border Agency, Fire and Rescue Service and COPFS.


23. **Do you feel that PIRC is sufficiently independent from Police Scotland? If not, why not?**

**Response:** I do feel that this is the case that PIRC is independent from Police Scotland and any other of the policing bodies that we investigate.

24. **What are the features and processes that safeguard the independence of PIRC?**

**Response:** In respect of PIRC undertaking investigations on the instruction of COPFS, the result of that investigation will always be reported to them. In a complex or long running investigation there will be regular dialog between COPFS and PIRC and if there are any concerns regarding PIRC's independence I would have expected that to have been highlighted by COPFS who themselves are independent.

With regard to a Police Referred investigation, whilst the report will be provided back to Police Scotland it will detail findings and if there are identified recommendations then PIRC will seek clarity from Police Scotland that they have implemented such recommendations.

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The position of Police Investigation and Review Commissioner is appointed by Scottish Ministers and it is a condition of their employment that they are not and have never been a member of a policing body or an elected politician. The appointment to that position is for 5 years only.

**25. As at 3 May 2015, you had undertaken three investigations of a death in custody/death following police contact (SBPI-00255). How did these investigations compare to the investigation into the death of Sheku Bayoh in terms of scale and complexity?**


**Response:** None of the investigations up to that point were of the scale as that for the investigation into the death of Sheku Bayoh. The normal practice when being allocated a death investigation, whether it be a Death in Custody or a Death following Police Contact is that you would utilise your own team members and maybe seek some help from staff from other teams to assist as required.

The complexity of this investigation grew as further instructions were received from COPFS, it also took the investigation away from examining the original terms of reference, even with the expansion of those as directed by COPFS on 5 May 2015.

The investigation into the Death of Sheku Bayoh was reported by PIRC to COPFS in August 2015, but the other instructions took until August 2016 to be concluded. Even after that further work was still being undertaken by PIRC until November 2019.

**26. Were these three investigations concluded prior to 3 May 2015? If not, when were they concluded? How long did those investigations take to complete?**

**Response:** I am unable to accurately respond to this question. PIRC Record of Retention policy has meant that paperwork relating to those investigations is no longer available.

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27. **PIRC had undertaken approximately 80 investigations prior to 3 May 2015, with approximately 18 of these being a death in custody/death following police contact. (SBPI-00255) Did any of these investigations involve reference to race as a factor? If so, please provide full details.**

**Response:** I am unable to answer that question this may be better answered by PIRC Senior management.

28. **Was there any process following these 80 investigations to share lessons learned and use this experience to refine PIRC's processes? If so, please provide full details.**

**Response:** PIRC had and still have regular investigatory update meetings, issues identified were normally cascaded during such meetings. But at that time there was no structured debrief process.

29. **Did any "lessons learned" exercise take place following the investigation in relation to the incident involving Sheku Bayoh? If so, what did this involve? If not, why did this not take place? Do you think the PIRC would have benefitted from such a "lessons learned" exercise?**

**Response:** There was no "lesson learned" exercise undertaken by PIRC into this investigation. Due to the time for this investigation to be concluded and then move to a Public Inquiry, a management decision was taken not to hold a de brief given the fact that there is this Public Inquiry. Who made that decision I cannot recall.

I do believe that we could have benefitted from such an exercise. In my opinion we can learn something from every investigation

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30. **You state you were aware of one other PIRC investigation in which a police officer refused to provide a statement. (SBPI-00255) Are you able to provide any further details in this regard? Were grounds given for the refusal? Did Police Scotland take any action, to either assist with obtaining the statement or consider proceedings against the officer? Was a statement provided by the officer at any point?**

**Response:** I actually said in my earlier statement that I am aware that a police member of staff refused to provide a statement. I was not involved in this investigation which took place in 2018, but recall that discussion was entered into with Police Scotland and the Staff Association which represented this member of police staff. I do not know how this was resolved and it may be better answered by John McSporry who dealt with this matter.

**PIRC's notification and initial involvement**

31. **You state that following an incident PIRC would be reliant on an officer contacting the Professional Standards Department (PSD) within Police Scotland. As a result, PIRC would normally be made aware of a relevant incident by a call from an on-call chief inspector from PSD. (SBPI-00255) In this case PIRC were instructed by COPFS under section 33A(b)(ii) of the Police, Public Order and Criminal Justice (Scotland) Act 2006. How would the process of being notified that you have described function in a case instructed by COPFS on these terms?**

**Response:** As I said in my previous statement you would normally in the case of an out of hours incident be notified firstly by a member of the Professional Standards Department and thereafter you would be in some dialog with COPFS regarding an incident to clarify firstly if they were aware of it having occurred and secondly did they intend to instruct PIRC.

In this incident it was COPFS who first contacted Keith Harrower.

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The details of lines of communication and response to a on call situation are clearly documented within the document 'Protocols & Procedures for Independent Investigations between The Police Investigations & Reviews Commissioner and The Police Service of Scotland and The Scottish Police Authority' which has been supplied to the Inquiry.

**32. Does this process of notification introduce delay before PIRC begin investigating?**

**Response:** Any process of notification has some form of delay. PIRC are unable to proceed with an investigation until it has received instruction from COPFS or the matter referred by the policing body as stipulated under the act. Please see my answer to Q33 re response to a on call situation.

**33. What, if any, are the advantages and disadvantages that arise from COPFS directing a PIRC investigation?**

**Response:** In making a decision to instruct PIRC, COPFS have made some assessment on the situation and decided on a terms of reference. In this instance the initial verbal instruction provided was to investigate the interaction between the police officers and Mr Bayoh at the time of his arrest and the events thereafter. This ensured that there is no ambiguity as to what PIRC has to investigate, similarly if there is to be a change to that instruction it needs to be communicated clearly.

**34. Were you content with the instructions PIRC received from COPFS across investigation? Were they sufficiently clear and defined? If not, why not?**

**Response:** When I was appointed on 4 May 2015 to investigate this matter I was briefed that we were investigation the circumstances of a Death in Custody as defined under 33A(b)(ii) of the Police, Public Order and Criminal Justice (Scotland) Act 2006, from the point of the interaction between the Police and Mr Bayoh at point of his arrest and events thereafter

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This was based on a verbal instruction which Keith Harrower had received.

On 5 May 2015 written instruction was received from COPFS in which the initial terms of reference were expanded, I was aware that this letter instruction did not specify the exact subsection and only generalised that it was an instruction in terms of Section 33A of the Police Public Order and Criminal Justice (Scotland) Act 2006, but it seemed clear to me from the narrative of the instruction that this was one under Section 33A (b) (ii). I can recall having a discussion with my managers on this point and being reassured that this was the case.

On 12 June 2015 further instructions were received from COPFS which referred to the earlier instructions under Section 33A of the Police and Public Order and criminal Justice (Scotland) Act 2006. This letter identified three areas of concern expressed by the family and stated that *'if there is evidence to confirm the concerns that may indicate the commission of a criminal offence by a police officer where the conduct amounts to criminal neglect of duty or possibly an attempt to pervert the course of justice'*. *'As a result I am content that these should be investigated'*

In my opinion this was not particularly clear whether COPFS were instructing a criminal investigation as defined under section 33A (b) (i) Police, Public Order and Criminal Justice (Scotland) Act 2006 or for PIRC to continue its investigation under Section 33A (b) (ii) of the act and examine the three areas of concern and if we identified any evidence of criminality to consider that. The decision was to continue under Section 33A (b) (ii) of the act and report accordingly. Our investigation into these three matters was reported within the final report submitted to COPFS.

On 2 July 2015 an email was received from COPFS in response to email correspondence PIRC had received from Mr Anwar. In this email from COPFS PIRC received an instruction to investigate an allegation made by Zahid Saeed through his lawyer Mr Anwar that during the course of the police investigation Mr Saeed had been assaulted and prevented from leaving Kirkcaldy Police Station. There is no mention of what legislation PIRC is being instructed to undertake this investigation although it was determined by PIRC from the narrative that this was an instruction under Section 33 A (b) (1) of the Act.

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I believe that the above examples show that COPFS were not being specific in their instructions and were generalising what investigation they wished PIRC to undertake.

It was only upon receipt of this email instruction of 2 July 2015 that PIRC were instructed to undertake a criminal investigation and then only into the actions of the police officers who had engaged with Mr Saeed

**35. You make reference to your understanding being that this was an investigation under section 33A(b)(ii) of the Police, Public Order and Criminal Justice (Scotland) Act 2006 (SBPI-00255). Were you aware of the legislative basis upon which PIRC were instructed to investigate the incident by COPFS changing during the investigation? What difference, if any, does the legislative basis upon which PIRC are instructed to investigate by COPFS make to a PIRC investigation?**

**Response:** As detailed with my answer to Point 34, instruction from COPFS was generalised under Section 33 A of the Act rather than being specific. The circumstances of the death of Sheku Bayoh were always being investigated under Section 33A ( B ) (ii) of the act and only the later instruction(s) relating to the conduct of the two officers who interviewed Mr Saeed related to a criminal investigation.

As such being known suspects for this criminal allegation the two officers were afforded their legal rights.

**36. You explain that due to “limited numbers” of staff not every on-call team had a scene manager and that on 3 May 2015, DSI Harrower did not have enough people and that as a result he was trying to “scramble some resources” (SBPI-00255). Why were there limited numbers of staff at this time? Was this a funding issue, or was PIRC not able to recruit staff into positions?**

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**Response:** I am unable to answer this question, I was not responsible for the number of staff employed, decision on their skill set or difficulty in recruiting sufficient members of staff.

**37. Was this issue considered when establishing PIRC’s policies and practices, including the on-call system? If so, what was considered and what was the decision taken?**


**Response:** From experience not having a scene manager available on the on call team would not normally cause great difficulty, whilst it would always be preferable to have your own scene manager, Police Scotland in particular have always been willing to have a Crime Scene manager available to work under PIRC direction if required.

The matter of whether this issue was considered when establishing PIRC is a matter for PIRC Senior Management at that time to answer.

**38. Did the incident investigated by PIRC which took place at Victoria Hospital in October 2014, require a scene manager and, if so, what occurred?**

**Response:** My recollection is no, this incident which occurred on 18 October 2014 was referred to PIRC by Police Scotland on 24 October 2014, the A & E Unit of the hospital which had been contaminated by the use of CS Spray had been reopened on 20 October 2014 following decontamination. There was nothing for a PIRC Scene manager to examine.

**39. You explain that after PIRC are alerted to an incident, they must travel into the PIRC office and gather their own equipment before travelling to the appropriate location (SBPI-00255). Was the resultant delay in PIRC reaching the scene of an incident considered when establishing PIRC’s policies and practices? If so, what was considered and what was the decision taken? Do you consider that the benefits of investigators travelling first to PIRC’s offices to collect their equipment outweighs the benefits of arriving earlier at the locus of an incident? Please explain your view in this regard.**

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**Response:** As per my response at Q 38 I am not in a position to comment on management decisions on policies and practices. PIRC staff would always have to attend at PIRC offices in order to collect the PIRC pool vehicles to enable them to travel to the incident. They also require to be briefed on the incident and be aware of what PIRC has been instructed to investigate. I do not consider it of great benefit to travel directly to a scene and be arriving unprepared.

**Categorising involved persons as witnesses or suspects**

40. **You explain that in larger investigations PIRC may seek input from COPFS as to whether they agree with a PIRC decision to categorise a person as a witness or as a suspect (SBPI-00255). Did you, or any person at PIRC, seek input from COPFS at any point during this investigation as to the categorisation of the police officers that attended Hayfield Road on 3 May as witnesses? If not, why not? Was this not needed by PIRC?**

**Response:** COPFS were aware from the first day that the nine officers who were in attendance at Hayfield Road, were being classified as witnesses. This was also clearly documented within the PIRC situational reports prepared for COPFS dated 11 and 21 May 2015. PIRC Senior management were in regular contact with COPFS Senior Management and I was not aware that there was an indication that the nine officers were viewed as anything other than witnesses. I do recall seeing an email or letter from COPFS which confirmed that they agreed that the nine officers were witnesses but in preparing this response I have been unable to identify this document.

41. **You explain that the early hours of the investigation were hampered by the failure of the attending officers to give initial accounts. (SBPI-00255) In what way?**

**Response:** The failure of the attending officers to provide initial accounts as would have been expected under a PIP process or in fact any statements did hinder the PIRC investigation.

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At the start of the investigation I obviously had no account from any of the officers it was unclear who had attended and in what order. I had no clarity on what each officers actions were and more importantly why they took those actions. I needed to know what had Mr Bayohs actions been when the first officers encounter him.

It was being mentioned that Police Officers had used CS and Pava Sprays as well as making used of batons handcuffs and other restraints why and by whom that I did not know.

Some of the information I would be able to piece together from material seized from Police Scotland and other sources like copies of Airwave message, Incident logs, other witness statements, CCTV etc but that all required time and resources. So they failure to provide initial accounts and later statements caused undue difficulties.

**4 May 2015**

**42. You were appointed lead investigator on 4 May. Do you recall when you were told that the deceased was Black?**

**Response:** I cannot recall exactly when I was told this but it would have been fairly early on that date, I also note that the briefing paper prepared by Keith Harrower makes reference to a black man in the accounts from eye witnesses.

**43. What handover did you receive from Keith Harrower and any other PIRC staff involved on 3 May? Was it sufficient? If not, why not?**

**Response:** I answered this question in my initial statement to the Public Inquiry and it was sufficient as I believe that they imparted all the information they had to me.

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44. A briefing note was prepared for the Director of Investigations in relation to the events of 3 May 2015 (PIRC-03694). Who prepared this briefing note? What was its purpose? Within a summary of the incident, the briefing note states that the attending officers could “clearly see that Mr Bayoh was in possession of a knife and making his way towards them”. Do you consider that the briefing note is accurate in this respect? If not, what impact, if any, did this inaccuracy have on your initial approach to the investigation?

**Response:** I answered this point in my previous statement to the Public Inquiry as detailed at para 36.

45. An extract from DS Campbell’s evidence to the Inquiry (day 49, p.73, line 5) is as follows:

*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.*

Do you agree with DS Campbell that DSI Harrower’s handover of responsibility to yourself and SI McSporrان caused “challenges”? If so, what were these challenges and what did you do to mitigate them? If not, why not?

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**Response:** No I do not agree with D/Supt Campbells conclusion, in my previous role in the Police as an on call SIO it was fairly common that you would hand an investigation over to another SIO the next day.

**46. How would you describe the division of responsibilities between you and John McSporran? Did you work well together? If not, why not?**

**Response:** I believe that John and I had a good working relationship, initially we agreed that I would manage the investigation on a day to day basis and John would deal with the more strategic aspects which included maintaining policy book and media duties. We met several times a day and agreed on tactics, resourcing priorities. Initially I was allocated as the Lead Investigator with John to provide oversight but as the investigation developed in its infancy John and I's role developed into John being the SIO and I his deputy. This was a structure that we both had experience of in major investigations we had undertaken in our previous roles in policing.

**47. You state that you recognised that this incident was of a magnitude that PIRC had not experienced yet and that a structure would need to be put in place. (SBPI-00255) Did you feel there were sufficiently established existing processes and policies that were there to guide this? If not, why not?**

**Response:** I do not recall their being any existing policies, the process I adopted was one which I as an SIO had been trained in and had put into practice on numerous occasions.

**48. You note that events at Collette Bell's home address did not fall under the terms of reference for PIRC's investigation, yet you were involved in discussions that led to the house being returned to the family. How did this come about? Did you consider any implications of this? Do you see any disadvantages to this, such as it suggesting to the family a lack of independence or separation between PIRC and Police Scotland?**

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**Response:** As detailed at para 44 of my initial statement to the Public Inquiry I was contacted by Investigator Alistair Lewis during course of 4 May 2015 on this matter, this was primarily to seek my view as I believe that he had been asked about Collette Bell recovering items from her house which she needed for her child. At that time that was a matter for Police Scotland as the seizing and retaining of this house fell under the areas COPFS had determined that Police Scotland should investigate. I did offer my opinion to Alistair on this matter. I do not know if he passed this onto Police Scotland or not.

The major implication I considered was that any relationship with Ms Bell would be adversely affected if she was refused permission to get what she needed.

There is no doubt that the initial COPFS decision to split the investigation was not helpful in providing clarity or reassurance to the family or the public in general that an independent investigation was underway.

**49. There was no sudden death report produced by Police Scotland. (SBPI-00255) When did you become aware of this? What action did you take, if any? Would the presence of a sudden death report have rendered a difference? Was this the document you refer to being faxed to the mortuary and being received during the post-mortem?**

**Response:** Police Scotland did produce a Sudden Death report there was just a delay in it being available for the start of the Post mortem.

**50. John Ferguson briefed the pathologists. Did you make a note of this briefing? If not, why not? What information was passed to the pathologist during this briefing? Are you content that the information passed to the pathologist was comprehensive and accurate?**

**Response:** I believe that I covered this in my initial statement to the Public Inquiry that I cannot recall if I was present for the full briefing which I believe was provided by John Ferguson. I did not make a note of any briefing.

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I cannot recall what information was passed to the pathologist. John Ferguson was a highly experienced investigator who had been involved in the PIRC investigation from the outset. I am confident that he would have supplied a comprehensive briefing based on the information we had available at that time.

51. **GP and hospital records were not available to the pathologist in advance of carrying out the post-mortem. You note that as there were no FLOs in place it was not known who Sheku Bayoh's GP was. (SBPI-00255) Did this make you aware that police FLOs were not in place?**

**Response:** I had been made aware by Keith Harrower during the initial briefing he gave me that Police Scotland had not deployed FLOs during course of 3 May 2015. One of my first actions on 4 May 2015 was to allocate two FLOs so no this was not when I became aware that police FLOs had not been deployed.

52. **Also present at the mortuary were other individuals, including Bernard Ablett (COPFS). During this time did you seek authorisation from Bernard Ablett to seize Sheku Bayoh's medical records? If not, would this have rendered the process quicker? If yes, was this communicated to other PIRC investigators?**

**Response:** No I did not seek Mr Ablett's authorisation, I had no need for this. The issue with the hospital records was that the deceased name had not been entered onto the record so they could not be traced under his name. It was only days later they were recovered. Mr Ablett's authorisation would have made no difference.

53. **DC Gilzean, DC Grady and DCI Hardie were present at the post-mortem. Following a death in police custody, is it common for the post-mortem of the deceased to be attended by police officers? If not, why were police officers in attendance at the post-mortem? What purpose is served by police officers attending a post-mortem?**

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**Response:** A Post Mortem is instructed by COPFS and they have responsibility on attendance. Mr Ablett was in attendance and in charge of this process. I am aware that there is a requirement for the deceased to be identified prior to a post mortem taking place, in my experience this would be carried out by a relative of the deceased. The family of the deceased had indicated to my colleague Keith Harrower that they would not participate in that process.

I communicated that information to COPFS and they instructed that identification would be carried out jointly by John Ferguson PIRC Investigator and DC Grady due to their prior involvement with the deceased.

In addition fingerprints obtained from the deceased prior to the commencement of the post mortem were to be transported by Police Scotland [REDACTED]  
[REDACTED]  
[REDACTED]. So I understand why the police were in attendance.

At that point this incident was being investigated jointly by PIRC and Police Scotland so I can understand their presence for that reason also. The decision who attends ultimately rests with COPFS.

54. **An “Officers Note” was subsequently prepared in relation to the post-mortem (PIRC-04148). What, if any, involvement did you have in preparing this note? If you did not prepare this note, are you aware who prepared it?**

**Response:** I prepared this note.

55. **In your experience, what is the normal period of time between a death in custody or death following police contact occurring and a post-mortem taking place? Who did you understand was ultimately responsible for the decision that the post-mortem would go ahead on 4 May?**

**Response:** In my experience there is no normal time period, it can depend on a variety of things, nature of the death, availability of the mortuary, pathologist(s).

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As previously stated it is COPFS that decide if a post mortem should take place, its venue, date/time etc. In this instance it was Mr David Green who advised me that this post mortem would take place when it did.

**56. Is it correct that it was your understanding that PIRC had not intended to deploy FLOs on 3 May, but that the intention was that Police Scotland do so? (SBPI-00255) If this has been the case, did you see any disadvantage to Police Scotland FLO meeting the family on 3 May in advance of PIRC FLOs?**

**Response:** I was made aware on 4 May 2015 that PIRC had advised Police Scotland that they would not be deploying FLOs and that Police Scotland had stated that they would undertake this function. This has happened previously and continues to happen on a regular basis. Given the circumstances I believe it was vitally important that specifically trained officers be deployed to meet with the family that day. They are trained to provide support to families in a sensitive and compassionate manner whilst assisting the investigation and also supplying the family with timely information in accordance with the need of the investigation.

I saw no disadvantage in the Police FLOs meeting with the family prior to PIRC FLOs being deployed. The fact this family were left without any support from FLOs until PIRC FLOs engaged with them on the 4 May 2015 was a distinct disadvantage primarily to the family but also the investigation.

**57. You explain that the police can assist PIRC by providing Police Scotland FLOs if there are no PIRC FLOs available. (SBPI-00255) Do you have any comments as to how this could seem to a family that there is a lack of independence between Police Scotland and PIRC?**

**Response:** Yes I could see that, but I cannot envisage any circumstances that police do not initially deal with a death. The FLO role is so important to provide support and information to a family that it is, my opinion, that this professional support is provided as soon as practical and not left for the next day or even two days before a PIRC FLO is available.

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It is also recorded and agreed within the Protocols & Procedures for Independent Investigations signed by the Chief Constable that *'For the purpose of independence of investigation the police incident/senior investigating officer will undertake to perform the actions requested by the PIRC Duty Senior Investigator'*.

**58. As at 3 May 2015, a Family Liaison Policy was in place at PIRC. In line with the Family Liaison Policy, what risk assessment, if any, was carried out in advance of FLO deployment? (PIRC-04460).**

**Response:** A risk assessment was conducted immediately upon the allocation of the two FLO's Alistair Lewis and John Clerkin. I had to consider a number of factors in this selection which were

Current Workload

Experience

Ability to meet demands of this particular deployment

Appropriate Briefing

Conflict of Interest

Welfare Support

Contact with SIO & D/SIO

I met or had discussion with the FLO's on an almost daily basis and on each occasion I considered any circumstance which may have presented a risk to them or the family.

**59. PIRC's Family Liaison Policy (PIRC-04460), at p.7, states:**

***It is essential that prior to any FLO deployment the SI has formulated a family liaison strategy. The strategy should set out the objectives for the liaison between the family and the investigation and are the basis for tasking the FLO.***

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***The Family Liaison Strategy is one of the most important considerations that the SI and investigations team will have to address throughout the course of an investigation.***

**What steps, if any, did you or colleagues at PIRC take to create a family liaison strategy on 3 or 4 May 2015? What objectives were contained within that family liaison strategy?**

**Response:** The FLO strategy was documented by Alistair Lewis within the FLO policy book and is the first entry made by Alistair following his documenting details of the incident. This strategy was prepared in discussion with myself and later reviewed by John McSporrnan once he commenced with the investigation.

**60. How were FLOs assigned by PIRC – is it based on who is available on the day? Is there any consideration given to factors such as religion or gender?**

**Response:** It is based on a number of factors, PIRC has a Family Liaison Coordinator who's role was to oversee all FLO deployments manage any welfare issue, consider suitability for deployment, assist in FLO developments. Alistair Lewis was the coordinator he was also arguably the PIRC's most experienced FLO. I liaised with him on this matter as I would for all FLO deployments. Availability to take on this role will always be a consideration. There would be no point deploying a FLO who is off on holiday in a day or two that would not be appropriate.

**61. What are the differences between family liaison services provided by Police Scotland and family liaison services provided by PIRC?**

**Response:** There is in my opinion, no immediate difference their skillsets are identical with similar levels of training. The difference is that the PIRC FLO is working on the instructions of the PIRC lead investigation

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62. **You state you cannot recall if the family of Sheku Bayoh were advised of the result of the post-mortem. (SBPI-00255) Who had responsibility for ensuring that the family were updated of the post-mortem result in a timely manner?**

**Response:** In my statement (SBPI- 00255) I actually say ‘ *I can’t recall when the family were advised of the result of the post mortem. However, the information may have been delivered via the FLOs and if so would be recorded into the FLO log*’.

Following the providing of this earlier statement, I have examined PIRC documentation and whilst I could not recall the exact specifics when I provided this statement to the Public Inquiry nor did I have access to the required documentation, I can see from the PIRC Family Liaison logs and statement of Investigator Lewis that at 1748 hours on 4 May 2015 Alistair Lewis contacted Mr Anwar who had been appointed by the family and advised him of the interim result of the Post Mortem. I can also see from this FLO log that at 1830 hours on 4 May 2015, my FLOs met with the family where Mr Adi Johnson reiterated that Mr Anwar would be the family contact.

Mr Anwar had been appointed to receive all information from PIRC relating to the family. When I first met the family on 6 May 2015 at the offices of Mr Anwar I provided the family with a full update of what had been identified during the course of this post mortem. This update was based on my notes and recollection of the Post Mortem as the initial Post Mortem report had not yet been received from COPFS.

The responsibility for providing a timely update to the family lay with myself and the Family Liaison Officers. This is what occurred shortly after the completion of Post Mortem and a number of hours prior to my meeting with D/Supt Campbell.

63. **You spoke to ACC Nicolson at 12.35. Approximately how many investigations did you work on with ACC Nicolson while you were a police officer?**

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**Response:** I was a member of Strathclyde Police Fraud Squad for about a period of five years from 1999 to 2004. For some of that period, how long I cannot recall, Mr Nicolson was the Detective Chief Inspector in charge of this squad. So I reported to him on a number of investigations I undertook.

In particular he was the SIO for an investigation in which I also work alongside him, which investigated [REDACTED]

[REDACTED].

64. **You asked ACC Nicolson to contact Irene Scullion about certain matters, rather than speak to you as they would require liaison with COPFS and you could not do that at that time. ACC Nicolson told you he had spoken to Irene Scullion and she had directed him to speak to you. You directed ACC Nicolson back to Irene Scullion as you considered it a strategic matter out with what you had been asked to do in the investigation. (SBPI-00255) Did you consider contacting Irene Scullion yourself to resolve the issue of who ACC Nicolson needed to speak to?**

**Response:** I have no recollection of what I considered at that time. I would have spoken to Irene Scullion on several occasions throughout that date but what conversations I had with her I cannot recall.

65. **Police Scotland held a briefing at 1000 hours on 4 May 2015, chaired by DS Campbell (PS00784). Were you aware in advance that this briefing was due to take place? Did any representative from PIRC attend this briefing? If not, why not?**

**Response:** I was not aware that this briefing was taking place and I can see from this document that it appears to a minute of this briefing which appears to be D/Supt Campbell holding a briefing with his Inquiry team. No PIRC staff were at this briefing and I would not have expected them to be. This appears to be an internal briefing of the Police Scotland Inquiry team.

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66. **Police Scotland held a Gold Group meeting at 1230 hours on 4 May 2015 (PS03161). Were you aware in advance that this meeting was due to take place? Did any representative from PIRC attend this meeting? If not, why not?**

**Response:** I have no recollection of being advised of this meeting, No one from PIRC attended, as to my knowledge we were unaware that it was taking place. In May 2015 attendance at follow up meeting like this was challenging as they were held in person and meant PIRC staff had to travel to attend. Now it is a regular occurrence that following an incident an appropriate PIRC staff member will be in attendance at any Gold Group meeting as they have moved to being held via TEAMS.

67. **In the evening you met with DS Campbell, DCI Hardie and DI Wilson at Kirkcaldy Police Office. You confirmed that officers could be told the interim post-mortem result. You had attended the post-mortem to know as soon as possible if there was any indication that head trauma injury was the cause of death. (SBPI-00255) What did you consider when making the decision that the officers could be told the interim post-mortem result? Was there an intention to put their minds at ease?**

**Response:** When I attended on the evening 4 May 2015 at Kirkcaldy I was surprised that the police officers who had attended this incident had still not provided statements. As I said previously in my earlier statement this was unheard off. My sole rational was to try and break this deadlock and get statements from the nine officers. I was aware that my actions were unprecedented but faced with this continued situation I thought it appropriate. This I did for a number of reasons.

- I had earlier spoken to Alistair Lewis PIRC FLO and provided him with an update on the Interim Post Mortem findings. This information was passed to Mr Anwar who was then representing the family at 1748 hours that date. So I was happy that this interim result had been passed to the family through appropriate channels. This is clearly documented within the PIRC FLO Log.

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- It was as you said the interim result of unascertained pending further examination and not the full result which would be confirmed in the future.
- The pathologist had confirmed that blunt force trauma had not killed this male.
- Police Scotland officers were in attendance at this PM so this result was known to a number of officers.
- Not having any statements or information from the attending officers was hindering investigation from the outset.
- This interim result reinforced in my mind that the attending officers were witnesses and I wanted it confirmed to them and why.

68. **You were “absolutely clear at that time, and at that stage, and the information [you] have, that they’re witnesses.” Was this a factor in your decision that the officers could be told the interim post-mortem result?**

**Response:** Yes see my response to Q67

69. **In May 2015, was it standard practice for officers involved in some way in a death in custody or death following police contact to be informed of the results of the post-mortem after it had taken place? If not, what was the standard practice in these circumstances?**

**Response:** No it was not standard practice see my response to Q67

70. **Did you consider at this point checking if the family had been updated as to the interim post-mortem result? Did you take any steps to ensure they would be updated by you or any person at PIRC?**

**Response:** I was aware that prior to this meeting that the family legal representative had been made aware of the interim result of the post mortem and my FLOs were meeting with the family that night. Please see my full response to Q67.

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71. **Your notebook appears to read “(1) Post mortem: family need to know about post mortem” (PIRC04520 p.4) When was this comment made? Did you action this?**


**Response:** My recollect and upon examining this file note is that I made that note when I had been first appointed to undertake this investigation and I was making quick points of what immediately needed attended too. This comment is in relation to have the family contacted and made aware that post mortem was taking place that afternoon and also seek their assistance in the identification of the deceased. Whilst I had appointed the two FLO's by that time I actioned to Keith Harrower to contact family as he had met them the night before and I also asked Keith to introduce over the phone our FLOs.

72. **Can you confirm the basis of your understanding on 4 May that the attending officers would provide statements by 5 May? (SBPI-00255) Had you been made aware of the request for statements and the refusal to date? Did you have any understanding at this time of the reasoning of the officers who were refusing to provide statements?**

**Response:** On 4 May 2015 during the course of my briefing I was made aware that the attending officers had refused to provide statements, apparently on the advice of a Federation representative who was in attendance at Kirkcaldy Office on 3 May 2015.

However following my meeting with D/Supt Campbell on 4 May 2015 and the response that he provided after I had advised him that I was content for the attending officers to be updated that the interim result of the Post Mortem. I also confirmed that their status was that of witnesses.

His response was that each of the officers would be spoken to that night by the area commander and the situation would be resolved. I saw no reason to doubt this.

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73. **Did you consider it was a priority for a member of PIRC staff to make direct contact with each individual officer to confirm their status as a witness and make the request for a statement, and ensure that the request and its context were understood?**

**Reason:** In hindsight I believe that is exactly what I should have done and it is something I always do now when in attendance at an out of hours incident or a Post Incident Procedure. But up until this point the request for a statement from a police officer or a member of police staff had always been requested via Police Scotland and this had presented no challenges previously.

74. **You believed that the attending officers would all be contacted that night. (SBPI-00255, PIRC-00370) Did you give any consideration to warning the officers, either directly or via Police Scotland, against conferring with one another about the incident ahead of providing statements to PIRC?**

**Response:** No I did not, my understanding was that the attending officers had been given a number of conferring warnings, so would have been fully aware of their responsibility in that context.

I can see from my notebook entry of 6 May 2015 at 16:10 hrs I have noted that whilst discussing the matter of operational statements with DCI Hardie I have noted ‘ *Unsure if given a conferring order*’. Whilst I cannot recall the rationale for this entry I must have been trying to clarify the area of conferring warnings.

75. **In your notebook following the evening meeting with Pat Campbell it appears to read “Confirm officers status as witnesses!” (PIRC04520 p.9) Is this understanding of your handwriting accurate? Who was tasked with this?**

**Response:** Yes that is accurate and this is a file note that I made during my meeting with D/Supt Campbell and I had confirmed the status of the officers as witnesses.

Signature of Witness  .....

Nobody was tasked other than D/Supt Campbell advising me that the officers would be spoken to and made aware of their status and statements obtained.

**76. The PIRC scene manager's log notes that the house was "returned on instructions of Mr Billy Little on evening of Monday 4<sup>th</sup> May 2015" (PIRC-04173). It is accurate that you gave the instruction that the house be released? If so, was this your decision to make? If this is not correct, why is it recorded as such in the PIRC scene manager's log?**

**Response:** This document is a record of notes kept by John Ferguson, upon examination of the document as well as his personal notes it also appears to have had other documents like briefing papers and emails copied directly into it. The quote that you refer to is on page 36 of 238 and actually is part of the contents of an email which has been sent from Detective Inspector Stuart Wilson to then DCI Stuart Houston and is an update on the current position of the identified scenes.

This email is dated 6 May 2015 times at 14:20 hrs as detailed at page 33 of this document. Why it says that I gave permission to hand back this house I do not know, but it is obviously connected to the point you raised and I answered at Q48

**77. At 16.00 Alistair Lewis attended a Police Scotland Gold Group meeting chaired by Assistant Chief Constable Nicolson. Why did you not attend this meeting? Did Alistair Lewis, or any other person, make you aware that at this meeting Chief Superintendent Garry McEwan expressed concern that the family of Sheku Bayoh were unhappy with PIRC and their lack of contact? If so, what did you do, if anything, in response to those concerns?**

**Response:** As is documented in my statements I was in attendance at the Post Mortem, I became aware of this meeting when I later that evening spoke with Alistair Lewis by telephone. As well as briefing me regarding the issue with gaining access to the house, he updated me re the concerns raised at this meeting.

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I had no concerns regarding the lack of contact with family, as Alistair advised me that he had been in contact with family and their lawyer and was scheduled to meet with the family later that evening.

I gave Alistair an update on the interim post mortem result. This he passed on to the family lawyer that evening at 1748 hours as per the FLO Log.

**78. On 4 May, PIRC contacted the Sierra Leone High Commission. Were you aware this was being done? If so, who informed you about this and what was said? Were PIRC required to contact the High Commission? If so, on what basis were PIRC so required to contact the High Commission?**

**Response:** This action was undertaken by Irene Scullion then Head of Investigation, this question should be directed to her.

**79. On 4 May, you met with Alistair Lewis and John Clerkin concerning FLO strategy. They were tasked with "obtaining relevant background details of the family members and the victim" (PIRC-04150). What was meant by obtaining relevant background details of Sheku Bayoh's family members? How was this relevant to the investigation?**

**Response:** This question may be better answered by Alistair Lewis, my understanding is that it is important to identify the family members who they are and what relation they are to the deceased. This is to ensure that you deal with the identified next of kin. It will also help to establish if a family member(s) can assist the investigation with background history on the deceased which would include medical, habits, relationships. Background is important for the areas I have listed.

**80. Your note of this meeting appears to include the wording "Aid Johnston [sic]: Do not..." (PIRC04520 p.5) Please provide the wording entered here and add any context that you think is relevant.**

Signature of Witness



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**Response:** Upon examining my daybook the scribbled note is “ Aid Johnstone -Do not want us to go through this morning. Solicitor involved. My recollection is that this refers to the request of the family for the post mortem not to take place and that they would not be engaging in the identification of the deceased.

**81. You became aware there were still no statements from the officers when you met with Keith Hardie on 5 May. You said at this point that the officers needed to be visited, advised of their status and asked to provide a statement. (SBPI-00255) What would this achieve? Did you view this as a formality or that it might lead to the officers providing statements?**

**Response;** Upon checking SBPI-00255, it appears that the date of 5 May 2015 is a mistake, I met with Keith Hardie on 6 May following the first meeting I had with the family.

No I absolutely did not view this as a formality, up till that point all I had was information from third parties that the officers who had attended this incident were refusing to provide statements. Both Keith Harrower and I had both confirmed to Police Scotland Senior management that the officers were all witnesses but I had nothing documented when the officers were advised of this and any response from them. I always retained hope that the officers would provide statements the situation was becoming untenable in my opinion and was totally unprecedented.

**82. In your Inquiry statement you confirmed that by 7 May you think you knew that there was a delay in officers providing statements. John Mitchell had taken on board dealing with that on a “strategic level” and raised matters with ACC Nicolson. John Mitchell was also corresponding with the Scottish Police Federation (SPF) legal team. You were not privy to these conversations. (SBPI-00255) If you had been fully aware sooner, would this have changed your investigatory approach? Does this mean you were not fully appraised on the situation?**

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**Response:** On reflection the use of the words '*you think*' is inaccurate, I absolutely knew that the officers were unwilling and had not provided any statements. I had to continue to conduct the investigation without the attending officers statements which is what I did, so my investigatory approach would not have changed,

**83. Across the time the officers were not providing statements PIRC were liaising with Police Scotland as to the requests for statements. Were the officers issued with any kind of prohibition or guidance from PIRC against conferring with each other about their recollection of the incident at any point? If not, did you consider this?**

**Response:** No please see my answer to Q74

**84. Your note of this day appears to include the wording “\* Refugee status!! \* let cabinet secretary know” (PIRC04520 p.6) What was your thinking at this time as to both of these points? What was the relevance of any refugee status of Sheku Bayoh's to the investigation? What information did you intend to pass to the Cabinet Secretary and why was it necessary to do so?**

**Response:** My recollection is that this was information that Irene Scullion identified, I can see from bottom of that page at 12:50- there is an update I.S ( Which will be Irene Scullion ) and I have identified the information requested. I cannot recall how we obtained this information or who I tasked to get it.

**85. On the printed copy of Detective Superintendent Campbell’s briefing from 4 May there are various handwritten notes. (PIRC-04127) Whose notes are these? Were these notes added to the briefing at a later date? If so, do you know when?**

**Response:** I cannot answer your points I have no recollection of this document being received by PIRC and when. I can confirm that on examination of the handwritten notes they are not in my handwriting.

Signature of Witness





86. **Detective Superintendent Campbell had instructed that the enquiry will go on HOLMES - the handwritten note reads "WHY". (PIRC-04127) What were the implications of this decision? Was this query expressed to Police Scotland? If not, why not?**

87.

**Response:** My answer is the same as that at Q85

88. **The briefing reads "PIRC is made up largely of ex senior police officers and members of other agencies". (PIRC-04127) Was this accurate? Do you have any thoughts as to why this would be contained in the briefing on 5 May 2015?**

**Response:** PIRC does have a number of ex police officers and members from other agencies, why the statement alluding to this is included in a Police Scotland briefing I cannot comment upon.

**5 May 2015**

89. **On this day, at the PIRC morning briefing you noted "Diversity support required for PIRC FLOs to take forward interactions with family." (PIRC-04156) What was meant by this? What was "diversity support"? Was this arranged for the FLO?**

**Response:** I have not noted anything, the briefing notes are very brief minutes prepared by the incident room staff on matters discussed during the course of that days briefing. My recollection regarding that statement is that I was wanting the FLO's to ensure that had full awareness on areas of diversity to ensure that they interacted with the deceased family in an appropriate manner. I note from my daybook of that date that I have also made a note 'Independent Lay person', which is linked to the same topic. I cannot recall if the FLO's did seek such advice or felt that they required advice from such a person. This is a question that they could answer.

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I also recall that I was reminding all of the enquiry team to keep an open mind on areas of equality and diversity throughout their enquiries.

90. **A Clue entry of this date concerns the need to obtain operational statements from the attending officers. This record is marked as medium priority. This contrasts with statements from other, seemingly less material, witnesses that have been identified as high priority. (PIRC-02792) Was this categorisation as medium priority intentional?**

**Response:** This Action would have been raised by the incident room staff who placed the priority of Medium. This on reflection is not an accurate prioritisation but it was certainly being dealt with as High priority given the efforts that were expended to resolve this issue.

91. **An entry in your notebook contains a list of twelve actions under the heading "Actions for Wed 05/05/2015" It does not appear that any of these actions included any steps to obtain statements from the principal officers. (PIRC04520) Is this because there was no action for PIRC to take in relation to this?**

**Response:** My recollection is that this is an entry I had made prior to going off duty on 5 May 2015 and would be areas that required attending too. Whilst I cannot be specific due to the passage of time I surmise this had not included the requirement for statements from the attending officers, as I had every confidence that following my meeting on 4 May 2015 with D/Supt Campbell then the matter of statements from the attending officers was being addressed. It was only upon John McSporran and I meeting with DCI Hardie on 6 May 2015 was it apparent that D/Supt Campbell had not ensured that statements were obtained from the nine officers as indicated during my meeting with him on 4 May 2015.

**6 May 2015**

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92. **What was your priority on this day as lead investigator? On this day, did you have a view as to what evidence PIRC awaited would be of most use to your investigation?**

**Response:** I had a number of priorities on this date and in no particular order these were.

- Hold a briefing to understand what information/action had been undertaken by the investigation team on 5 May and to allocate a number of actions.
- Ensure priority is given to the capture of evidence that could be lost over passage of time- CCTV, mobile phone data.
- Ensure follow up to post mortem, X Ray of deceased, samples to University. that forensic strategy meeting is arranged.
- Handover of documentation/Productions from Police Scotland.
- Meet with the deceased family
- Trace medical record.
- Follow up work required as to exact loci where a knife was recovered.
- Ensure administrative tasks/procedures are followed.

With regard to what evidence would be of most use to the investigation at that time, then my recollection is that I was keeping an open mind. Apart from the challenges with obtaining the statements from attending officers, it was more about prioritising at this stage engagement with the family of the deceased and ensure that any evidence that was time critical is secured and not lost.

93. **At this point, in advance of receiving any toxicological analysis, how were PIRC approaching their investigation? Did you, or the wider PIRC team, have a working view as to Sheku Bayoh's cause of death?**

**Response:** My recollection is that I was keeping an open mind as to the cause of death, I was undertaking a Death in Custody investigation and focusing on the ingathering of information and capturing of evidence rather than focusing on particular aspect.

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94. **On this day, you attended a meeting with members of the family of Sheku Bayoh and their legal representative, alongside John McSporran and Alistair Lewis? Do you recall when did you make the notes in your notebook concerning this meeting? Does the numbering of your notes refer to any agenda? (PIRC04520 p. 20-22) Can you please examine these pages and add any context you recall, such as to what the “(2) What” may refer?**

**Response:** After this passage of time I cannot recall exactly when I made the notes but given the scribbly nature of them I believe I was trying to make the notes at the time.

I cannot give any context to point 2 and why I have written down 'What'.

95. **Is it correct that this was your first meeting with Sheku Bayoh’s family members?**

**Response:** Yes

96. **Did you take any steps to explain to the family, or demonstrate to them, your independence from Police Scotland? If so, what were these steps?**

**Response:** My recollection is that prior to meeting with the family, John McSporran and I had agreed that he would provide an explanation to the family and their lawyer of who PIRC were and the purpose of the organisation and what powers we possessed. In addition he provide some background on both him and I. I then gave an overview of what I understood at that time had occurred and I also provided an update on what had been discovered at the Post Mortem and what the next steps would be.

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97. **In a self-statement you noted that during the meeting “it became apparent that the family and Mr Anwar had a number of concerns regarding the information that had initially been provided to them by various officers from Police Scotland and of the actions of the nine officers following the incident”. (PIRC-00370) What were these concerns?**

**Response:** My recollection is that the concerns centred around the numerous version of events that the family received from Police Scotland during the course of 3 May 2015. They also had concerns regarding articles that had appeared in the media that appeared to have emanated from both Police Scotland and also a number of politicians. I have documented these points within my official PIRC notebook ( PIRC-04200) which is notes I would have made shortly after this meeting.

98. **Did the family outline concerns to you at this meeting that race played a role in the encounter Sheku Bayoh had with Police Scotland and his death? If so, what was said?**

**Response:** No they did not

99. **Did any PIRC employee make a comment at this meeting as to the physical appearance of Sheku Bayoh? If so, please provide full details.**

**Response:** I have no recollection of any comment being made

100. **Were comments ever made to the family of Sheku Bayoh unofficially or “off the record” by PIRC staff? If so, what comments were made to Sheku Bayoh’s family and in what context?**

**Response:** I am unsure in what context you mean by this, everything I told the family was relevant to the investigation and so to them and I was doing my best to advise them as to what had happened based on the information I had available to me and what would be the next steps that I and PIRC would be undertaking. I did not use the term “off the record”

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101. **Were comments ever made unofficially or “off the record” by PIRC staff to other parties involved in the investigation such as Police Scotland or the SPF? If so, what comments were made and in what context?**

**Response:** I did not make any such comments. I cannot comment on what others may have said.

102. **Following the family viewing the body of Sheku Bayoh, Alistair Lewis submitted an incident message stating that during the viewing a brother-in-law of Sheku Bayoh had made comments to the affect that there would be violence as a result of Sheku Bayoh’s death. (PIRC-03716) Were you aware of this at the time? Who was the incident message sent to? What action was taken as a result? Did you speak to Alistair Lewis further about this? If so, what did you discuss with Alistair Lewis?**

**Response:** I do recall that Alistair Lewis submitted such a message. The message was passed to the incident room. My recollection is that no action was taken. I believed that this was a comment made at a time of considerable duress by a family member.

103. **At 16.10 you met with John McSporran and DCI Hardie at Kirkcaldy Police Office. During this meeting the handover of aspects of Police Scotland’s investigation to PIRC was agreed given the updated terms of reference received from COPFS. (PIRC-00370) How was this handover to be organised? What were you told about DS Campbell’s communication with the nine attending officers and the outstanding request for statements from them?**

**Response:** Given the passage of time I cannot recall the specifics of how this was going to take place. But I can see from the entry in my daybook ( PIRC04520) for that date that I have listed a number of points. In addition I have asked for confirmation of who was the police office manager [REDACTED] Upon checking this daybook I can see numerous references over the coming days to documents material being uplifted from Police Scotland.

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With regard to the attending officers statements, I cannot recall exactly what was discussed but I have recorded at point 1 of my daybook.

*'Snr Management looking at getting the operational statements.'*

This indicates to me that Police Scotland were continuing efforts to get the statements but they had not been submitted at that time.

**104. Given that PIRC's terms of reference were expanded by COPFS the preceding day, on 5 May 2015, what, if any, discussions had you had with Police Scotland prior to this meeting in relation to the handover of the aspects of the investigation for which Police Scotland had been responsible to that point?**

**Response:** Given the passage of time I cannot recall exactly what discussions I had, although I can see from reference to my daybook that at 10:41 hrs of 6 May 2015, I have recorded a note that I had a telephone call with DCI Hardie on this matter.

**105. Your notebook notes for this meeting appear to read "SNR management looking at getting the operational statements". Under this heading is included the sentence "Unsure if given a [illegible] order". (PIRC04520 p.23) Can you please clarify the wording for this entry? Was this order given? Did you take any steps, at any later point, to confirm if an order was given?**

**Response:** The word is conferring. Enquiries undertaken with Post Incident manager confirmed that the matter of not conferring had been dealt with by CI Trickett and also that the attending officers had been advised by Acting Inspector Kay and DI Colin Robson not to discuss this incident

**7 May 2015**

Signature of Witness  .....



106. **In your note of a discussion with DCI Hardie at 10.15, you record that his “intention” was to speak to all officers and ask them to provide a statement. (PIRC04520 p.29) Did you understand at this time that this had been done already by Police Scotland? If yes, what did this comment in your notes relate to?**

**Response:** My recollection is that whilst I was being told that the officers were not providing statements despite our efforts we did not have the identity of who from Police Scotland had asked each of the officers, To this end DCI Hardie was asked to visit each of the officers explain that they were witnesses and ask them to provide a statement. This conversation was followed up later that day with an email from John McSparran to DCI Hardie.

107. **You spoke to DCI Hardie again at 11.50. Please can you examine your notes of this conversation and provide any context as to what the email from Professor Peter Watson concerned and the email response referenced? (PIRC04520 p.30)**

**Response:** I cannot recall what occurred during this conversation. The only context I can give is, it is apparent that there had been an email from the legal representative of the attending officers which I had become aware of and I had asked DCI Hardie to hang off attending to see each of the officers.

108. **Your notes reflect that you were advised by email at 14.55 that six of the principal officers had been seen by Keith Hardie and were not providing a statement. Three principal officers were still to be seen. Your notes state “All advised not to confer by PIM CI Conrad Trickett”. (PIRC04520 p.32) Did you feel that this “advice” was sufficient to prevent conferral?**

**Response:** Please see my earlier response on the matter of conferring.

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109. **You spoke to DCI Hardie again at 15.40. Please can you examine your notes of this conversation and provide any context as to what was said between DCI Hardie and Professor Peter Watson? (PIRC04520 p.31-32) Did you confirm that DCI Hardie had clarified with Professor Watson the status of the officers as witnesses?**

**Response:** Given the passage of time I cannot recall, my note refers in particular to PC Nicole Short [REDACTED] My notes also confirm that I had actioned one of my investigators to have PC Shorts injuries photographed. I can also see that John Mitchell was calling Mr Watson on this matter.

I cannot recall if I discussed with DCI Hardie what else he had spoken to Mr Watson about.

**8 May 2015**

110. **On this day, you and John McSporrان met with the family’s legal representative. Do you recall attending this meeting? If so, please provide your recollection as to what was discussed and how the relationship with the family was at this time. What were your actions arising from the meeting?**

**Response:** I do recall attending this meeting but I am unable to recall what was discussed. Examination of my PIRC Notebook (PIRC-04200) and daybook shows that Mr Anwar was provided with an update in relation to a number of areas which included. That the deceased had controlled drugs which will require investigation and that a witness had been traced who had stated that the deceased was seen walking along road in possession of a knife and striking out at cars.

Mr Anwar advised that he had requested an independent post mortem.

Signature of Witness [REDACTED] DocuSigned by: [REDACTED]

111. Please can you examine your notes of this meeting and provide a transcript of the note you have taken. (PIRC04520 p.38) Were any other minutes taken at this meeting? If so, please identify where those minutes are located.

**Response:** My notes are

*Meeting along J McS with Aamer Anwar given an update in relation to a number of areas, he confirmed that he had requested independent PM by Tony Bustell.*

*Raised some concerns regarding the uniqueness of a death that may involve some form of positional asphyxiation.*

112. On this day Alistair Lewis and John Clerkin met with Collette Bell and Lorraine Bell to obtain a statement from Collette Bell. Were you aware that Lorraine Bell was to be present when Collette Bell's statement was taken? If so, what consideration, if any, was given to any ramifications of this, with Lorraine Bell also being a witness in the investigation? If you were not aware at the time, would you expect to have been made aware and when did you learn of this?

**Response:** The decision to have Lorraine Bell present would have been one taken by Alistair Lewis and John Clerkin and I would envisage that she would have been present to provide support to her daughter. Whilst I cannot recall any discussion on this matter, I can see from Collette Bells statement that it is clearly documented that her mother was present during the taking of this statement so I would have known when I read this statement.

113. PIRC's Family Liaison Policy (PIRC-04460, p.8) states:

***...given the potential for compromising the FLO's relationship with the family and to minimise the chances of a challenge to the integrity of the evidence recorded, FLOs should only be asked to interview significant or vulnerable witnesses in very exceptional circumstances following full discussions on such matters with the SI***

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**Was any consideration given to other investigators, other than the deployed FLOs, taking statements from the family of Sheku Bayoh? If consideration was given, why was the decision taken that FLOs would take the statements?**

**Response:** The deployment of FLO's to the family of the deceased had proved to be particularly challenging given the events that occurred on 3 and 4 May prior to PIRC FLO's engaging with the family. So I felt it important that the family were met by and engaged with investigators who were known to them and who also were fully trained to deal with such situations.

I also had limited resources so it made sense that the FLO's undertook these tasks.

**114. Did Alistair Lewis or John Clerkin speak to you after taking the statement from Collette Bell? When did you become aware that Collette Bell had said in her statement that there were inaccuracies in her Police Scotland statement? (PIRC-00028) What steps, if any, did PIRC take in response to these inaccuracies being identified by Collette Bell?**

**Response:** After this period of time I cannot recall if/when I spoke with the FLO's I would have become aware of the inaccuracies upon reading the statement taken by John Clerkin. This second statement highlighted the inaccuracies so in terms of accuracy for the PIRC investigation they had been clarified. I have no recollection if I took any further action on this matter other than the information being passed to COPFS.

**115. Collette Bell's statement confirms that she was asked by John Clerkin if Sheku Bayoh drunk alcohol or took drugs. The statement includes details about others being disapproving of Sheku Bayoh and Collette Bell's mixed-race relationship and details of Sheku Bayoh's view of the police. (PIRC-00028) What was the relevance of these matters to the PIRC investigation?**

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**Response:** On the date this statement was obtained the cause of death for the deceased had not been established it was appropriate to have a full understanding of the deceased lifestyle so the information regarding his consumption or otherwise of alcohol or drugs is relevant. I cannot comment on the issue re approval or otherwise of the deceased and Ms Bell's relationship this matter may have been raised by Ms Bell herself. This question is one to be answered by the person noting the statement.

**116. PIRC investigators took a statement from James Hume. Mr Hume states he was asked if Sheku Bayoh took drugs, drank alcohol or took steroids and asked if Sheku Bayoh was an aggressive person who became involved in fights. Mr Hume's evidence is that he felt he was asked leading questions and that it felt "accusatory rather than fact-finding". Mr Hume says he was left upset and it built up mistrust from him towards PIRC and the police. (SBPI-00021) Were you aware at any point within the investigation of any concerns raised by witnesses in relation to the approach of PIRC's investigators? Do you have any response to Mr Hume's comments?**

**Response:** I was not aware of any concerns raised by witnesses in relation to PIRC's approach. Given the cause of death, information regarding the deceased use of alcohol, drugs and steroids was absolutely central to the matter under investigation. How this information was elicited I cannot answer but should be referred to the investigators who obtained Mr Hume's statements.

**11 May 2015**

**117. Around this date, did anyone from COPFS make contact with PIRC to suggest PIRC make direct contact with the officers to confirm their status as witnesses and request operational statements?**

**Response:** I have no recollection of that happening.

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118. Did COPFS, at any time, express any disquiet with PIRC’s approach towards obtaining operational statements from the officers and provide instructions as to how else they wanted the PIRC to investigate? If yes, please explain how you became so aware and any actions the PIRC took in response.

**Response:** I am not aware of this happening and if it did I was never approached or updated

119. What steps, if any, did you take to prevent the officers speaking to each other about the allegations or their status as suspects prior to their interviews taking place?

**Response:** I did not take any other steps, the officers had all received a number of conferring instructions on the day in question. I do not believe that this needed reinforcing by PIRC

120. John McSporran has advised the Inquiry that he:

*...undertook research by visiting the USA to find experts with experience of deaths involving persons who had consumed Alpha-PVP and then come into contact with police officers and subsequently died. There had been a significant number of Alpha-PVP (referred to as Flakka) deaths in Broward County, Florida, I offered details of persons with expert knowledge to COPFS.*

When was this trip taken? Please provide as full details as possible including length of the visit, location of the visit and professionals John McSporran met with. What was the outcome of this trip in terms of experts identified? Why was this trip necessary?

**Response:** I can only comment on the fact that John did along with others from different agencies aligned to the Scottish Government undertake a visit to America.

Signature of Witness  .....



I cannot recall when this was, the purpose of the visit and others involved or how John was chosen. John McSporrان needs to answer that question.

**121. On 11 May, you were sent a screenshot of an image from a Facebook page by Kara Ferrier of Police Scotland. A forwarded email stated that the image "clearly" referred to the incident in Kirkcaldy (PIRC-04552). The image depicts some police officers receiving a radio message that states that the welfare of "seven cops" is not a priority. (PIRC-04552(a)) Do you recall receiving this? Do you know why this was sent to you by Police Scotland?**

**Response:** I do not recall this post being sent to me. This was sent to me as I had asked DCI Hardie if Police Scotland could monitor Social media as PIRC had no capability of doing this. The purpose of this was to ensure that any evidence that appeared on a social media platform could be captured.


**122. Did you understand that Kara Ferrier expected you, or PIRC more generally, to take any action? How was this relevant to PIRC's role and PIRC's terms of reference?**

**Response:** I do not know what Kara Ferrier expected from PIRC. This post had nothing to do with our role or terms of reference.

**12 May 2015**

**123. On this day you "arranged and attended" a Forensic Strategy Meeting with representatives from PIRC, COPFS, Police Scotland, Scottish Police Authority Forensic Services and Crown pathologists. (PIRC-00370) Was any forensic strategy agreed beyond what is contained in (PIRC-04161)? If so, where is this forensic strategy documented?**

**Response:** I do not recall any other strategy being agreed at this meeting. PIRC 04161 are the only minutes of that meeting.

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124. **Why did Police Inspector Darren Faulds attend this meeting? (PIRC-04161)**  
**If Inspector Faulds was required for part of the meeting was any consideration given to him attending only the relevant section? How common is it for Police Scotland's officers and staff to continue to be involved in PIRC investigations into deaths in police custody as those investigations progress? What steps do PIRC take to ensure that such investigations are independent from Police Scotland?**

**Response:** Inspector Faulds attended in his capacity as a member of the road policing department, this unit have particular equipment that could provide assistance in mapping the layout of the different locations. At times Police Officers and Staff are involved working under the direction of PIRC to assist in providing specialist knowledge or equipment not available to PIRC.

**13 May 2015**

125. **On this day, Alistair Lewis and John Clerkin obtained a statement from Ade Johnson (PIRC-00106). Kadi Johnson was present during this time. Was any consideration given to the appropriateness of Kadi Johnson being present, with Kadi Johnson also being a witness? If so, what were the factors considered and the decision taken?**

**Response:** That is a matter for Alistair Lewis and John Clerkin to answer.

**14 May 2015**

Signature of Witness  .....

126. At the PIRC morning briefing on this day, you provided an update that COPFS wanted PIRC to obtain statements from the police officers “as they’re public servants. However, they clearly have rights of their own, so it’s a difficult situation. Crown are obviously lead for this investigation, so we will need to discuss further with them.” (PIRC-04156) What powers did COPFS want PIRC to use to obtain statements from the officers as public servants? When did you discuss this further with COPFS? Did you reach an agreement as to the legal powers of PIRC, and how this matter should be pursued?

**Response:** I did not know what powers COPFS expect PIRC to use as we do not whilst investigating a matter directed by COPFS have any powers to force a witness to provide a statement. I did not discuss this further with COPFS but Senior Managers at PIRC may have done.

127. On this day, the SPF released a public statement. This statement contained details of what some officers alleged had occurred on 3 May stating:

*A petit female police officer responding to a call of a man brandishing a knife was subject to a violent and unprovoked attack by a large male.*  
(SPF-00010(a))

This was prior to the officers providing any information, or statements, to PIRC. Do you remember any discussions within PIRC about the content of SPF’s statement, or the decision to release it? What was your view in relation to the content of SPF’s statement and the decision to release it ahead of the officers’ providing statements to PIRC?

**Response:** I can recall that this statement was released by the SPF but have no recollection of any discussion within PIRC about it. I do recall being surprised that they had made this statement.

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128. **Did you, or any staff member of PIRC, feel any action was necessary in response to this statement? If yes, please provide full details.**

**Response:** I do not have any recollection regarding this.

129. **Was there any PIRC SOP or guidance that covered media activity in ongoing investigations? Whose responsibility at PIRC was it to consider any action PIRC may have needed to take in relation to liaison with the media during the course of the investigation? Did you liaise with the media during the course of the investigation? If so, in what way?**

**Response:** I do not know if there was any PIRC guidance or SOP in this regard. PIRC did have a position of a communication officer and my recollection is that, that person changed in the early days of the PIRC investigation to a Michael Tait. I did not liaise with the media I am aware that John McSporran undertook a number of witness appeals.

130. **On this day, you had an exchange of emails with Supt Andy Edmonston and DI Stuart Wilson regarding Police Scotland’s reporting of the incident to the Health and Safety Executive (HSE) through the RIDDOR process (PIRC-04003). What is the process that is followed when submitting a RIDDOR report to the HSE following a death in custody? Who is responsible for submitting this report? What involvement, if any, does PIRC have in submitting this report to HSE?**

**Response:** My understanding is that this is a responsibility that lies with police Scotland, upon reading this email it is apparent that Police Scotland have raised this matter with PIRC. My only involvement would have been to ensure that the information was accurate.

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**131. What involvement, if any, did you have in liaising with HSE during PIRC's investigation? Who was PIRC's primary point of contact for matters relating to HSE's involvement in this investigation?**

**Response:** I had no involvement although I am aware that COPFS engaged with HSE on this matter.

**132. How common was it in 2015 for HSE to investigate deaths in custody that PIRC was also investigating, either independently or jointly with PIRC? What consideration, if any, was given during the investigation to PIRC and HSE carrying out a joint investigation?**

**Response:** I do not believe that this was common. Consideration was given by COPFS who were directing this investigation.

**133. How well equipped, in terms of resources and expertise, was PIRC in 2015 to investigate matters arising under the Health and Safety at Work etc. Act 1974 where HSE chose not to investigate?**

**Response:** PIRC would only be able to undertake this investigation if so directed by COPFS, in that regard I would need to examine the terms of reference and this legislation before I could comment.

**134. During the course of the investigation, what view, if any, did PIRC have in relation to whether or not HSE should have initiated their own investigation into the incident involving Mr Bayoh?**

**Response:** I have no view on this.

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15 May 2015

135. **Garry McEwan’s evidence is that he established a Community Impact and Reassurance Group due to “escalating community tension, unprecedented tabloid reporting and unrest in social media”. He stated that he had asked for PIRC to attend this group as members and, as at 15 May, this had not transpired. (PS03136) Did any person from PIRC attend at any point? If not, why not? Were you aware of this request? Who did McEwan make this request to?**

**Response:** I was not aware of any request on this matter

17 May 2015

136. **Decision 34 in the PIRC Policy Log (PIRC-04153) on this day states it “is clear that COPFS are providing information to Mr Anwar the family solicitor, regarding the investigation, post-mortem and other findings. PIRC are unsighted on some of these matters and this can undermine and compromise our dealings with the deceased family”. This text was written by John McSporran. Would you have agreed with the views expressed as at 17 May?**

**Response:** Yes I did, this course of action presented a challenge in PIRC’s dealings with the family and their lawyer as it could arise that information provided by the FLO’s was at variance to that already provided by COPFS.

137. **If yes, in what ways did you consider that the actions of COPFS were undermining and compromising dealings with the family?**

**Response:** See response to Q136

Signature of Witness  .....



138. **Was it usual for COPFS to pass information directly to the family’s legal representative without PIRC’s knowledge?**

**Response:** In my experience both with the police and that of PIRC this was unusual and I cannot recall another time this has happened whilst a live investigation was ongoing and prior to the circumstances being reported to COPFS.

139. **Also within decision 34, John McSparran notes that the “Director of Investigations has discussed this matter with Les Brown, COPFS and requested that he ensure PIRC are apprised of all such communications to ensure our investigation and relationship with family does not suffer detrimental impact.” Were you made aware that any person at PIRC had spoken to COPFS about this situation? Did this discussion render a change in the actions of COPFS? If so, in what way?**

**Response** I was aware that Mr Mitchell had spoken to COPFS on this matter, but I do not think it resolved it. I was aware that information was being passed to Mr Anwar prior to PIRC being advised this happened with regard to the final post mortem results.

**18 May 2015**

140. **On this day PIRC noted they were requesting the police notebooks of the officers that attended Hayfield Road (PIRC-04156). What was the relevant PIRC SOP or guidance concerning seizure of notebooks, daybooks, Use of Force forms or Use of Spray forms? Did PIRC’s actions adhere with PIRC SOP or guidance as to seizure of evidence?**

**Response:** There is no guidance that covers when and if an item should be sized that is a decision made by the investigation team. PIRC did and has guidance in how any item should be seized to ensure that its integrity is maintained whether that be forensically or evidentially or both.

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141. **What involvement, if any, do PIRC have in ensuring that police officers complete any mandatory paperwork?**

**Response:** that is a matter for the Police.

142. **Do you consider that an officer's failure to complete necessary paperwork after an incident including notebooks, use of force forms or CS/PAVA spray forms amounts to misconduct? If so, upon what grounds do you consider it constitutes misconduct? Within an investigation, would PIRC ever contact Police Scotland to identify potential misconduct on the part of its officers? If so, were the principal officers reported to Police Scotland by PIRC at any point during this investigation?**

**Response:** That was/is a matter for Police Scotland to have considered. The failure to complete documents was known to Police Scotland as they had reported this fact to PIRC.

**19 May 2015**

143. **On this day, is it correct that at 10.20 and at 11.20 you spoke to DCI Keith Hardie? (PIRC04521 p.17) Please can you provide a transcript for this page of your notebook?**

**Response:** *10.20- K. Hardie- Going to see Nicol Short this morning re her position & get medical mandate signed.*

*Said that CS/PAVA reports had not been done on advice of Federation as it would provide information of incident same for Use of Forces Form. Advised him re email dated 06 May 14:55 from Stewart Jenkins @ Jackton that states Use of Force Forms submitted.*

*11.20- K Hardie called to say that he had spoken to Nicole Short. She has indicated that she will not provide a statement she will email response. Medical mandate signed*

Signature of Witness

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*and ready for uplift. Nicole states she provided a statement vi a precognition officer to P.Watson happened same day.*

**144. On this day, it was noted by DSI Ian MacIntyre on PIRC’s case management system that Chief Superintendent McEwan had referred to PIRC in his statement and “adverse comments to be addressed”. DSI MacIntyre later entered that following discussions with you and John McSporran this action was now marked complete. (PIRC-02938) Do you recall this conversation with DSI MacIntyre and John McSporran? If so, what was discussed? What was the outcome of Chief Superintendent McEwan’s comments?**


**Response:** I do not recall this conversation and cannot recall any outcome.

**145. The action is marked as “complete” on 26 June 2015, two days after PIRC obtained a statement from Chief Superintendent McEwan (PIRC-00181) in which no reference is made to any “adverse comments” made by Chief Superintendent McEwan within his operational statement. What consideration, if any, was given to discussing Chief Superintendent McEwan’s adverse comments with him when he provided his PIRC statement on 24 June 2015? Why were these concerns not discussed with Chief Superintendent McEwan?**

**Response:** I saw no need to discuss this matter with Mr McEwan he had an opinion on PIRC and what he believed should have happened that was his opinion. I have addressed this in my first statement to the Public Inquiry.

**146. What was PIRC’s attitude toward any criticism or perceived criticism of their investigation? How was any such criticism considered and addressed?**

**Response:** PIRC is not immune to criticism or perceived criticism. The matters raised by Mr McEwan and nothing to do in my opinion with the investigation going forward.

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His statement would have been submitted to COPFS like all statements and if they felt it appropriate could have raised the matter with COPFS or the Commissioner.

**147. This entry on 19 May refers to a further entry from 20 May in which it was noted that Chief Superintendent McEwan would be reinterviewed and his day notebook and notes relevant to the investigation would be seized. (PIRC-02946) What was the intention of the re-interview?**

**Response:** Upon examination of the statement taken from Mr McEwan on 24 June 2015 I see that this was clarification on a number of matters.

- Gold Group meeting 1130 hrs on 3 May 2015
- His involvement in the canteen on that date
- Death message to family
- Form of words to be passed to Police Officers.

#### **21 May 2015**

**148. There is a Clue 2 entry concerning a statement from Scenes of Crime Officer (SOCO) Pamela Patterson. It appears that a statement was not obtained from her, or other relevant SOCOs, by PIRC due to an assumption that a statement would be provided directly to COPFS. (PIRC-02966) What was the basis for the understanding that statements would be provided directly to COPFS? Did PIRC not require statements from relevant SOCOs as part of their investigation? What, if any, steps were taken by PIRC to confirm that statements were provided directly by the SOCOs to COPFS?**

**Response:** In my experience any work undertaken by Scottish Police Authority, Scenes of Crimes officers would be reported in the form of their report. This report would be lodged with COPFS. If in the event that the investigation was proceeding to a court hearing then COPFS would request statements from the SPA staff to support their reports. I can see that this action (PIRC-02966) is a carry over from the Police

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Investigation as it has been raised by DC Brian O'Neill and not PIRC incident room staff.

**22 May 2015**

**149. Around this date, did any person from COPFS indicate to any person at PIRC that COPFS considered that the refusal of the attending officers to provide statements impacted on the statutory duty of a constable with reference to s.20 of the Police and Fire Reform (Scotland) Act 2012? If so, what, if any, steps did PIRC take as a result of this?**

**Response:** No I am not aware of this.

**150. More broadly, were you aware at any time across your involvement in the investigation of any person at COPFS or Police Scotland expressing the view that a refusal of officers to provide statements impacted on the statutory duty of a constable with reference to s.20 of the Police and Fire Reform (Scotland) Act 2012?**

**Response:** No

[Redacted]

151. [Redacted]

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[REDACTED]

152. **On this day you met with the FLOs and noted it was necessary to identify everyone present at the meeting with Garry McEwan (PIRC04521 p.29) Was this in reference to the meeting of Garry McEwan and the family of Sheku Bayoh on 3 May 2015? If not, what meeting did this relate to? Was this completed?**

**Response:** From recollection and upon examining my notes then I would agree that this was in reference to that meeting of 3 May 2015. No this was not completed the Action raised for this PIRC-03033 (254) shows that on 18 May 2017, I referred this Action given that despite numerous requested as documented on PIRC-03033 Mr Anwar and the family failed to provide details of who was in attendance. In addition Action 255- PIRC-03034 is linked to this same topic and details why this action was never completed.

153. **You spoke with John Mitchell at 16.10 and were advised that the family's lawyer had been advised by COPFS of timings as to the release of the body of Sheku Bayoh. Your notes seem to read that the interim post-mortem report was passed to the lawyer for the family, prior to it being given to PIRC. (PIRC04521 p.30) Did this occur? What was the impact of this? Did COPFS routinely pass information to the family in advance of sharing information with PIRC?**

**Response:** This note at 1610 hours confirms that COPFS had passed information direct to the family which PIRC and in particular the FLO's were unaware of and is precisely the point that had been made to COPFS by Mr Mitchell as detailed within Policy log Decision 34 as detailed at Q139.

**27 May 2015**

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154. **On this day Alistair Lewis received a text from Ade Johnson which raised various queries and stated, "the investigation should not be about Sheku's character or family or lifestyle" (PIRC-02593) It appears that Alistair Lewis discussed receiving these text messages with you as he sought your advice on being asked by the family to correspond with a generic email. (PIRC04521 p.32) Did he speak to you about the concern expressed by the family? If so, what did you think about this concern? What, if any, action did you take as a result of this?**

**Response.** My recollection on this matter is that I did discuss this text from Mr Johnson but I felt it was inappropriate that we respond to the matters raised by responding in a text or email as requested by Mr Johnson. So I asked Alistair to respond generically. I can see that following this text a Policy decision was made by John McSporran as listed at decision number 37 on this matter. The text from Mr Johnson which has been replicated within the FLO log was fairly lengthy and covered a number of points so it was deemed more suitable that any response to the points raised by Mr Johnson should be passed to the family at meeting which had been scheduled for later that date. (This meeting was later cancelled). This response by PIRC was passed by voicemail to the mobile phone of Mr Anwar to ensure he was kept up to date as detailed within the FLO log. I was later advised that a meeting had been arranged by the FLO's between the family and their lawyer at Mr Anwar's offices for 29 May 2015.

**28 May 2015**

155. **You noted in advance of the PIRC briefing for this day "family have withdrawn behind their lawyer". (PIRC04521 p.35) What did you mean by this? Did you view this as a failure of PIRC's FLO process? What, if any, impact did this have on the investigation?**

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**Response:** I cannot recall exactly why I made this note. Based on the information and examination of the FLO Logs for that period, there was a degree of frustration as the FLO's had been attempting to speak to family members to obtain information but were being redirected to the family lawyer, also efforts were made to have a home visit but again the FLO's directed to the family lawyer. So it was proving challenging to ensure the family had answers to the questions they were posing directly to the FLO's

**29 May 2015**

**156. On this day, you attended a meeting between the family, their legal representative and PIRC. (PIRC-00370) Please provide your recollection as to what was discussed and how the relationship with the family was at this time.**

**Response:** I recollect that John McSporrán, Alistair Lewis and I attended a meeting. We firstly met with Mr Anwar on his own, I cannot recall if this was pre-arranged or if the family were running late. Whilst speaking with Mr Anwar I ran over a number of points that were outstanding which I have detailed within my daybook.

1. Asked in letter to crown to investigate family history- need their help for this
2. On Wed 13/5 agreed to provide family tree
3. Agreed to give family some breathing space.

Complaint about CS McEwan's information but we have no idea who was in the house when this was delivered.

I have also noted and provided a verbal update that Steroids- 2 Anabolic Steroids  
Amphetamine  
Ecstasy

Extract of brain nothing except consistent with cardiac arrest.

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Which was information which I had received in advance of full toxicology reports. My recollection was that this matter was not discussed with family as it was incomplete and further tests were still ongoing.

I have also noted that we were joined by four family members at 1715 hours. Adi ( Mr Johnson), Collette(Bell). Cadi ( Should be Kadi Johnson) and Collette's mother. I have noted within my notebook ( PIRC-04200), provided with up to date position- numerous questions by the family members. I have recorded four areas of concern at the end of this meeting.

1 CCTV @ Hospital concerns the nine officers had been involved.

2 How many other police officers were @hospital

3 Who put the officers in the room

4 Eyewitnesses to assault on PW ( police Woman) wanted to know details and then if they stayed and looked through an upper/lower window.

**2 June 2015**

**157. At 9.40 you were advised by John Mitchell that he had spoken to David Kennedy (SPF) about the issue of the principal officers providing statements. (PIRC04521 p.48) Please can you examine your entry for this conversation and provide a transcript or summary of what was discussed?**

**Response:** Advised by J Mitchell that he had a T/call conversation with David Kennedy who will meet with Peter Watson and will seek to have officers make themselves available for interview & statements. J.M email David Kennedy to confirm then ???? ( Sorry I cannot read last word)

**158. There is note in your notebook under the heading "J. McSporran". (PIRC04521 p.49) Please can you examine your entry for this conversation and provide a transcript or summary of what was discussed? Does the wording read "Did not know why Fed Rep was allowed?" – what did this comment relate to?**

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**Response:** This appears to be an update from John McSporran on his interview with CI Trickett and are bullet points I have noted. the note reads.

*J McSporran- Finished statement of CI Trickett*

*P. Campbell did not want Initial Accounts*

*Did not know why fed rep was allowed in.*

**159. On this day the SPF released a public statement which read:**

***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 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. (SPF-00019)***

**At the morning briefing on 3 June, you described this statement released as “not helpful”. (PIRC-04156) In what ways was it not helpful?**

**Response:** I found this unhelpful as it implied that the SPF were waiting all along for PIRC to approach them to have the officers provide statements. It is well documented the efforts we had made with Police Scotland and SPF Legal representatives in this regard and this was just an unhelpful statement put out to the media making it sound in my opinion that we had been doing nothing in this regard.

**160. Further to being “not helpful” did you consider the statement to be accurate? Was it your understanding that the officers had never refused to provide statements?**

**Response:** I did not consider this statement to be accurate and the officers had refused to provide statements on previous occasions as detailed in my earlier responses.

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**161. Did you take any action, internally within PIRC or otherwise, in relation to this statement? Did any person at PIRC take any action? If so, what action was taken?**

**Response:** I did not take any action and I am unsure if anyone else did.

**162. Do you think that this statement undermined confidence in PIRC? If so, in what way?**

**Response:** I felt it could in the Publics eyes, as it inferred that PIRC had only to ask the SPF for statements from the nine officers and they would have complied, despite the fact a month had passed since the attending officers had refused to provide statements or complete any documentation.

**163. This was approaching a month after the incident and the officers were yet to provide statements. Did you consider that the officers' refusal to provide statements on request amount to professional misconduct under the Police Service of Scotland (Conduct) Regulations 2014? If so, on what basis? If so, what, if any, steps did you take as a result of this?**

**Response:** I do not feel that this is question that I can answer. PIRC has no jurisdiction in respect of conduct matters relating to Police Officers other than Senior Officers (ACC and above)

**164. What, if any, impact did the officers' ongoing refusal to provide statements have on PIRC's consideration of them as witnesses or suspects?**

**Response:** None this decision was based on no crime having been established and having no reasonable cause to suspect that they had committed a crime.

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165. **Do you consider that PIRC’s approach to statement taking, and the contents of statements was thorough? Please explain why you consider this to be the case.**

**Response:** Yes I do consider that the statements were thorough, the majority of investigators had a wealth of experience in investigations and were very able and capable statement takers.

166. **What was the process within the PIRC investigation for ensuring that all relevant points were put to witnesses?**

**Response:** I had in place an established and dedicated Major Incident Room, staffed with persons of experience. Actions were raised and points identified on the action as to what should be covered. In addition the investigators were all experienced statement takers and I expected that they would conduct due diligence to ensure that they identified the pertinent points in line with any information that would arise through the daily briefing mechanism.

167. **What was the process within the PIRC for cross-checking statements between witnesses to examine disparities between a witness’s own accounts, and accounts given by other witnesses? Did you check statements that were taken by your investigatory team?**

**Response:** The primary responsibility for this task lay with the Major Incident Room staff. I would absolutely read statements which were identified to me from the Major Incident Room as being one of importance. Over time I endeavoured to read the statements. I could not confirm if I read them all or not.

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168. **There are various officers from whom the PIRC investigation did not take statements and who seemingly had relevant evidence to offer the investigation, including but not limited to, DCI Keith Hardie, DS Lesley Boal and Inspector Stephen Kay, with reliance apparently placed on those officers' operational statements instead. What was the process within PIRC to ensure that all relevant witnesses had been asked to provide a statement to PIRC? Why was it considered unnecessary to obtain PIRC statements from certain police officers who had a significant involvement in the response to the incident on 3 May 2015?**

**Response:** Operational statements were requested from all police officers involved in any aspect of the incident. Only if the information supplied was lacking in detail or required further clarification or missing certain information was it deemed necessary to raise an action for that officer to be reinterviewed. Similarly if a witness had a statement taken from them by a police officer, I would not have asked for that witness to be reseen by a PIRC investigator as a matter of routine but only if I required further detail, clarification on certain points. It is not practical to have PIRC reinterview every witness as a matter of course.

Actions can be raised by the Major Incident Room but ultimately need not be allocated as the areas identified could have been clarified in some other statement or document since that particular Action had been raised, or was no longer deemed to be pertinent.

169. **Kevin Nelson provided statements to PIRC on 5 May and 26 August 2015 (PIRC-00019, PIRC-00020). PIRC learned of the alleged stamp on PC Short from attending officers Craig Walker and Ashley Tomlinson when they provided their statements to PIRC on 4 June 2015. It appears that PIRC did not put this point to Kevin Nelson when he was re-interviewed by PIRC on 26 August 2015. Is this the sort of matter you would expect PIRC to have spoken to a witness about? Why was this point not put to Mr Nelson when he was re-interviewed by PIRC?**

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**Response:** I did not think it necessary for this witness to be reinterviewed. It is clear from his statement taken by Investigator Kareen Pattenden that after he (Nelson) stated that he saw the deceased punch PC Short, he left his view point from his front window and had no sight of the altercation until about 10-20 seconds later when he entered his front garden and stood at his front gate. By this time the deceased is being restrained on the ground by the police.

So in my opinion it is quite clear that Kevin Nelson was not in a position to see any of the events that occurred after the deceased had punched PC Short. In addition I recall that Inv Pattenden advised me that she had herself taken this route from Mr Nelson front window to confirm time it would take and given the height of the hedges of that house, he would have been unable to see anything that was occurring at street level until he reached his garden gate.

I do see from my daybook I have an entry made on 22 June 2015 regarding potential reinterview of Kevin Nelson so I have considered this matter, my entry also references a discussion with Mr Mitchell on this matter. I cannot recall the content of that discussion but Mr Nelson was not reinterviewed on the matter of the alleged stamp for the reason I have alluded too.

**170. On this day, John Mitchell met with a representative from the SPF and it was agreed that the nine attending officers would provide statements to PIRC. (PIRC-04156) Did John Mitchell attend this meeting alone? Do you have any knowledge of who arranged this meeting and what was discussed?**

**Response:** No Mr Mitchell would need to provide information on this matter.

**3 June 2015**

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**171. On this day, work was completed by PIRC in advance of the interviews of the principal officers. (PIRC-04156) A generic interview plan was completed by IO Sinclair. (PIRC-04182) Is it correct that individual investigators then completed tailored plans based on the generic interview plan? Did you review these plans? Is it standard practice for PIRC to obtain statements from witnesses using a document of this nature?**

**Response:** Investigator Sinclair is a trained Interview Advisor so I had approached him to create a generic interview plan in preparation for when we could get to interview the attending officers. This was unusual and is not something that would regularly occur. I reviewed the generic plan which was to be used.

**172. How were investigators assigned to interviews?**

**Response:** I cannot recall how I planned this. In general it was based on ensuring that each PIRC pairing had at least one investigator/deputy senior Investigator who was experienced in taking detailed statements.

**173. What guidance was given about what material should be read by interviewers prior to interviews?**

**Response:** I cannot recall following the passage of time what guidance was provided in this regard.

**174. Was there a meeting on the afternoon of 3 June to discuss the interviews? Do you recall what was said? Please provide full details. What discussions, if any, did you have with your colleagues in relation to the lines of questioning to be explored with the officers?**

**Response:** My recollection is that this briefing was about logistics of the interviews ie who was going where, what vehicle they were using and who would be the lead in the interview teams.

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An Action had been raised for each of the officers which provided information over and above that contained within the generic interview plan so I wanted to ensure that each team had a package which contained this Action, generic interview plan, maps, copy of the officers notebook and officers SCOPE print.

In addition it was to provide guidance in respect of what the interviewing teams should do if any of the officers make comment/statement that incriminates themselves in a crime. This was documented within the Witness Interview Strategy.

**175. When preparing to take the officers' statements, was consideration given by PIRC to asking the officers why they took certain actions or chose particular tactical options in responding to the incident involving Sheku Bayoh? If not, why not?**

**Response:** The interview strategy was prepared by an experience interview advisor who set out the generic areas to be covered in the Witness Interview Strategy. I would expect the interviewing teams to clarify during course of a statement why an officer did what they did.

**176. There is a note at 17.40 that seems to read "Amanda Givan looking to sit in with Nicole SHORT. No! Told him to get her to phone D. Kennedy" (PIRC04521 p.55) Can you provide any context as to this statement? What precipitated it?**

**Response:** I have written this as I have become aware that Amanda Given who herself is a witness in this investigation intended to provide support to PC Short whilst a statement was taken from her which I did not think appropriate.

**4 June 2015**

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**177. What was your role during the interviews of five of the principal officers on this day? What, if any, contact did you have with your colleagues who were taking statements from the officers to allow the accounts received from the officers who attended Hayfield Road to be compared and contrasted for any gaps or inconsistencies? If you did have such contact with your colleagues, in what way did that influence the lines of questioning that were put to the officers when their statements were taken?**

**Response:** I along with John McSporrان was present at Tulliallan whilst each of the officers were being interviewed. I made myself available in case of any issues during the taking of the statements and also for guidance if there was a need for any additional questioning/clarification if other matters came to light. I cannot recall if such an occasion occurred or not.

**178. On this day Amanda Given attended the site of the interviews. You state you clarified that you believed that she was a witness and it may be a conflict were she to be present for the officers giving their statements. (PIRC04521 p.56) Please can you examine your entry for this conversation and provide a transcript or summary of what was discussed and the outcome.**

**Response:** 11.40- Spoke with two Federation reps who turned up @ SPC after the officers had all attended.

Amanda Given

Nigel Bathgate [REDACTED]

Identified that Amanda Given is a witness and we believe it may be a conflict for her to be involved in supporting the officers during the taking of the statements. This she agreed and asked if she could introduce Nigel and then leave.

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[REDACTED SIGNATURE]

She also intimated that she is providing welfare support to PC Nicole Short for this and a previous incident, in light of both incidents I agreed that the welfare of PC Short outweighs my concerns re the conflict of interest and Amanada Given can attend [REDACTED] and provide support but not to be present at the statement.

The outcome was that Amanada Given was not present during the statement of the attending officers, was in attendance [REDACTED] to provide support to PC Short, but was not present in the room whilst that officer provided a statement.

**179. Your notes contain comments that seem to relate to the accounts of interviewed officers including Maxwell, Good, McDonough, Gibson, Short, Tomlinson and Walker. (PIRC04521 p.57-61) When and for what reason were these notes made?**

**Response:** My recollection is that these are a rough summary I prepared whilst reading each of the officers statements on Friday 5 June 2015.

**9 June 2015**

**180. On this day John Mitchell wrote to Chief Superintendent Ellie Mitchell requesting information about the nine attending officers including summaries of complaints against the officers outlining if criminal or non-criminal, nature of complaint, disposal and details of use of CS/PAVA/baton/asps in the 12 months preceding the incident. (PIRC-02287(a)) Was it usual for PIRC to ask for a summary rather than complete complaint records? Was it usual to ask for the last 12 months of records for CS/PAVA/baton/asps? What was the reasoning for confining the request in this manner?**

**Response:** You will need to direct that question to Mr Mitchell.

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**10 June 2015**

**181. On this day, PC Buttercase, the officer responsible for the auditing process for the CS and PAVA canisters used on 3 May 2015, was interviewed. PC Buttercase could not produce up-to-date records for CS and PAVA canisters. The officers had not completed the standard forms following discharge of incapacitant spray. Were you aware of this? What powers, if any, did PIRC have to compel the officers to complete the forms?**

**Response:** I was aware that no forms had been completed. This is an internal Police Scotland matter and PIRC has no powers to compel the officers to complete same.

**182. Did PIRC take any action in relation to this? Did you have additional concerns as to this, given the issues identified by the PIRC investigation following the discharge of incapacitant spray at Victoria Hospital on 18 October 2014?**

**Response:** I do not recall taking any action it was highlight in the PIRC report to COPFS. PIRC had issued two recommendations to Police Scotland on the completion of the investigation into that incident on 19 March 2015. Police Scotland advised PIRC that they had implemented both of my recommendations on 10 November 2015, post the Death of Sheku Bayoh.

**12 June 2015**

**183. On this day, you were given further instructions from COPFS to also investigate:**

- **Allegations by the family that they were provided with misleading and erroneous information concerning the death of Mr Bayoh to family members and a concern as to why they were provided with that information;**

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- **Concerns that the initial police investigations and attempts to secure evidence were not thorough meaning that crucial evidence was lost to the inquiry; and**
- **There was inappropriate conferring between police officers. (COPFS-04010(a))**


**What was your action as a result of this instruction?**

**Response:** Investigation into the above three areas was included into terms of reference which had already been instructed by COPFS and enquiries undertaken to establish if the three areas had occurred. The investigation undertaken and findings was clearly documented in Volume 2 of the PIRC report submitted in August 2016.

**184. On this day you wrote to the Sierra Leone High Commission seeking their assistance in obtaining any medical records held within Sierra Leone. (PIRC-02339) You had previously written on 8 May and 27 May 2015. Did you receive any response to these letters?**

**Response:** my recollection is No. I also engaged with Africa Directorate, Foreign and Commonwealth Office in an effort to assist.

**185. There is a Clue2 action relating to the re-interview of Conrad Trickett with points to be covered with the witness. (PIRC-02992) Was this kind of examination of further points to covered routine with all witnesses? If not, how was it decided which witnesses required this level of scrutiny? Was there any check to ensure that every point had been covered in a re-interview?**

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**Response:** The amount of points raised depended on the information required from the witness and the relevance of the witness. The points raised should have been covered by the person taking the statements and if not I would expect on the Action when they return it a rational why it has not been covered and this to be identified by the Major Incident room staff.

**186. Was it usual for officers to be re-interviewed by PIRC after they had provided an operational statement, or after they had already been interviewed by PIRC?**

**Response:** It depends on the quality of the statement points covered or if anything needed clarification.

**187. Did you consider it necessary at any point to re-interview witnesses where inconsistencies were identified between the accounts within witnesses' own statements, or between different witnesses' accounts? If so, in what cases were witnesses re-interviewed to address such inconsistencies?**

**Response:** In my experience there will always be some form of inconsistencies between witnesses who view the same incident. Re interview of a witness will be considered on a case by case basis.

**15 June 2015**

**188. On this day, you noted a call from the Foreign and Commonwealth Office to offer assistance. (PIRC04521 p.75) Do you recall what was discussed and agreed on this call? Did this relate to contact with the Sierra Leone High Commission? If so, what was outstanding and required at this point?**

**Response:** Yes this did relate to correspondence with the Sierra Leone High Commission. I cannot recall the exact conversation which took place. Please see my response to Q184.

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24 June 2015

189. On this day, a statement was taken from Garry McEwan by two PIRC investigators. (PIRC-00181) An entry from the Clue system reflects planned lines of questioning, including an intention to ask about a suggestion from Ade and Kadi Johnson and Lorraine Bell that Garry McEwan had referred to Sheku Bayoh being in possession of a "machete". (PIRC-02946) This was not covered in Garry McEwan's PIRC statement (PIRC-00181). Whose responsibility was it to ensure a statement covered all relevant points prior to it being finalised? Why was Garry McEwan not asked about Sheku Bayoh's family members' accounts of what they were told by him on 3 May 2015?

**Response:** Due to the passage of time I am unable to recollect if I provided any prior briefing to the investigators attending to take this second statement from Mr McEwan. This may have been provided by John McSporran or the Incident room as identified on the Action. I can see that the action was allocated to DSI Dodd on 8 June 2015 he may be better placed to answer this question.

190. It was intended that there be a full briefing with you or John McSporran prior to the interview taking place. (PIRC-02946) Did this occur? If not, why not? In what circumstances would you or John McSporran provide a briefing to investigators prior to an interview or re-interview?

**Response:** Re point one please see response to Q190. This was not an uncommon procedure invariably it was to update the investigator on aspects of the information required.

29 June 2015

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191. **On this day, PIRC contacted COPFS in relation to an email received from the family's legal representative (PIRC-02758). The family's legal representative expressed concern about Professor Flanagan's experience in relation to positional asphyxiation and restraint techniques. Were you content with the identities and level of expertise of the experts identified by COPFS and PIRC? If not, why not?**

**Response:** My role was not to pick the Expert Witnesses who were ultimately engaged by COPFS, I assisted in liaising with the National Crime Agency (NCA) and College of Policing who hold a list of recognised experts in different fields that may be required by Policing bodies.

The NCA and College of Policing also held their CV's which were obtained and passed through to COPFS for selection.

192. **As at 2015, what was the usual process followed by PIRC for identifying, selecting and instructing experts?**

Response: See response to Q191.

193. **Is it commonly a process that allows for the input of a family connected to PIRC's investigation?**

**Response:** I have not been involved in a previous investigation where a family have an input into the selection of an Expert witness. I am aware that at the outset, Mr Anwar did engage directly an expert witness, how this person was identified I do not know. To the best of my knowledge PIRC never got to see this persons report or findings

194. **In this case, what was the role of PIRC in identifying and selecting appropriate experts? What involvement, if any, did you have in the identification, selection and instruction of experts within this investigation?**

Response: See response to Q191.

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195. **What rules, guidance, standard operating procedures and/or case law, if any, did PIRC consider when identifying, selecting and instructing expert witnesses during the investigation?**

**Response:** I am not aware of any rules or guidance.

196. **PIRC noted that they were in the process of preparing a paper for COPFS with their proposals in relation to expert witnesses, suggesting who should be contacted for an opinion. Were PIRC's views on experts sought by COPFS and taken into consideration? If so, in what way? If not, why not?**

**Response:** I was not involved in any such discussions, this may have occurred at PIRC Senior management level. I am aware that a selection of Expert Witness CV's were forwarded to COPFS on a number of specialisms,

197. **Also on 29 June, an action was raised to re-interview PC Craig Walker concerning his two separate notebooks, to confirm his ownership of a second notebook, to explain why a relevant notebook had not been provided to PIRC and to cover "inconsistencies" between them. (PIRC-03180) No interview took place. Were you aware of this at any point? If yes, what was your understanding as to why this was not done?**

**Response:** I can see that this Action has been referred by myself on 5 January 2016 as it relates to a procedural matter that will be included in the final report.

My recollection is that PC Walker's notebook was within his Police Uniform which was seized on 3 May 2015. He thereafter had to be issued with an additional notebook which was dated from 3 May 2015 to allow him to make use of since his book was within the uniform seized on 3 May 2015.

I could only confirm this anomaly by examination of the two separate books. Both were lodged with COPFS during the course of the PIRC investigation.

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**Liaison with the family and their solicitor**

198. **A summary document was produced by PIRC detailing information as to contact between PIRC and the family’s solicitor between 1 June 2015 – 1 July 2015 (PIRC-02492(a)). Who drafted this document? Why was this document drafted?**

**Response:** I do not know who drafted this document, from its content it is a summary of the contact with the Bayoh family lawyer. I note from examination of PIRC-04016, it was sent on 1 July 2015 from Inv Alistair Lewis to Irene Scullion.

199. **This summary states that the lack of reply from the family’s solicitor had impacted the investigation as they could not get in touch with friends and family who were potential witnesses. Can you provide any detail about the impact of this to the investigation?**

**Response:** This would be better responded to by Inv Alistair Lewis and Irene Scullion. But the impact is clear from the note delays are occurring due to PIRC inability to contact witnesses

200. **If there were concerns about a lack of contact from Aamer Anwar or the family, were these concerns expressed to Aamer Anwar or the family at any point? If so, in what way, and what was the response from Aamer Anwar and the family?**

**Response:** I again direct you to Inv Alistair Lewis and Irene Scullion.

I had raised previously with Mr Anwar during one of our meetings a number of outstanding matters with the family which he said he would progress.

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201. **The summary states "emails are being read, with no response" - however there are various updating emails detailed in the summary document which, on the face of it, would not require a response. Did receiving "no response" to an update email impact the investigation? If so, how?**

**Response:** I believe that only by examining the exact emails would I be able to provide comment on this. As I said I did not prepare this note or ask for it to be prepared.

**July 2015**

202. **On 2 July the PIRC was further directed by COPFS to investigate the allegation of criminal conduct made by Zahid Saeed, issues of race and conduct, allegations of potential contraventions of the Data Protection Act 1998 and investigate miscellaneous other matters. Was PIRC instructed by COPFS on 2 July 2015 to investigate all of these matters, or was PIRC instructed to investigate some of these issues at a later date? When the investigation was expanded to include race, what steps did you or others at PIRC take to address this instruction? What was the thought process behind the approach ultimately adopted?**

**Response:** My understanding is that this email of 2 July 2015 was a further instruction from COPFS to investigate each of the four points namely:

To investigate the allegation of criminal conduct made by Zahid Saeed

(7) To:

(a) Investigate issues of race and conduct;

(b) Investigate allegations of potential contraventions of The Data Protection Act

1998;

Signature of Witness



(c) Investigate miscellaneous other matters.

And this is what happened, again I must refer you to the PIRC report Volume 3 from August 2016 which documents this fact.

With regard to matters of race and conduct, the thought process was firstly to examine the individual officers who had attended this incident disciplinary records held by Police Scotland to identify if there had been any previous incidents identified relating to this matter of race and conduct.

The incidents identified are again documented with Volume 3 of the PIRC report dated August 2016.

On 24 August 2015, PIRC were given additional instruction in furtherance from that of 2 July 2015 which was recorded with Policy Book Decision no 64.

1. Race – examine whether race/racism/institutional racism within the Fife area of Police Scotland and in the approach of individual officers played any part in or impacted on how officers dealt with Sheku Bayoh.

2. In pursuance of the last, examine the PSD records of officers involved in incident for racist or discriminating behaviour and report accordingly.

3. Examine the PSD history of PC Alan Paton and historic incidents/allegations ■

■■■■■

4. Undertake an audit of Police Scotland IT systems operational in Fife – CHS, PNC, SID, Crimefile – to determine if the 9 officers or any officers unlawfully accessed the data of the persons named in the letter.

Correspond with Mr Anwar setting out Scottish position in law regarding conferring/collusion, resignation, compulsion about providing statements, IPCC position contrasts with PIRC /Scottish Systems

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In undertaking this additional information a number of additional enquiries were instigated.

National police complaint statistics were examined to see if there was any pattern of racial behaviour.

Specific allegations against PC Paton of [REDACTED] and racist conduct to be examined (Further information came to light following BBC program involving of PC Paton, which had not been passed to PIRC).

Examination of attending officers conduct records

The incident already under investigation by Police Scotland regarding the sending of inappropriate message via social media.

**203. At the point PIRC's terms of reference were expanded, did you consider it necessary to take further statements from any witnesses to address the issues covered within the updated instructions from COPFS, including the instruction to investigate issues of "race and conduct"? If not, why not?**

**Response:** Following this instruction and in the course of conducting further investigation additional statements were taken from a number of witnesses.

**204. Prior to the instruction from COPFS, had you or anyone at PIRC given consideration to whether race was a factor in the incident? If so, in what way? If not, why not?**

**Response:** This was always under consideration and is recorded within the Policy book on 9 May 2015 at decision No 21. Which is headed Cultural & Religious issues. *"although not directed by COPFS at this stage, take cognisance of any issue of race if they emerge"*.

Signature of Witness

[REDACTED]

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This decision also expands on the area I raised during the course of my briefing on 5 May 2015, where I spoke about Diversity and proposal that consideration be given to seeking advice from an independent lay person as documented within my Day book and PIRC briefing notes for 5 May 2015.

**205. Did you think you and PIRC were equipped to investigate the issues of race and conduct as instructed? Did you undertake any research into how equivalent bodies may investigate a similar instruction? Did you seek any specialist input from outside of PIRC?**

**Response:** I did consider that I was equipped to undertake this investigation and PIRC had the necessary skillset and experience. I did not undertake any additional research and no specialist help was sought.

**206. What guidance or reference materials in relation to race were you aware of being available to you at the point you were instructed by COPFS to incorporate issues of race into the investigation? What materials did you use over the course of your investigation?**

**Response:** I do not recall there being any reference documents available in respect of the investigation of race. I am aware of the Lord Advocates guidance on offences aggravated by prejudice but my understanding is that, that guidance refers to the reporting of a crime where it is perceived by the victim to be aggravated by prejudice.

Over the course of the investigation I did make reference to a guidance/reference document which had been produced by the National Centre for Policing Excellence following the murder of Stephen Lawrence to assist Senior Investigating Officers.

This document is entitled Murder Investigation Manual. I received guidance on the use of this document during my SIO course which I attended during the course of my police career. My understanding is that this reference document was upgraded in 2021 and is now entitled Major Crime Investigation Manual.

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207. **Did COPFS ever provide support, detailed direction or feedback on the race aspect of the PIRC investigation? If so, in what way? If not, was such support, direction and feedback requested from COPFS? Would PIRC have benefitted from such support, direction or feedback?**

**Response:** No, there was no support, detailed direction or feedback on race. If there had been an issue on the areas of race reported through the PIRC reports to COPFS or any statements submitted then I would have expected some feedback and guidance and even an additional instruction to conduct further enquiries. My only recollection of additional enquires linked to this matter was the request to establish Threat levels and guidance that was in place with Police Scotland on the 3 May 2015.

208. **PC Kayleigh Good had provided a statement to PIRC on 4 June 2015. In her statement PC Good used the word “coloured” to describe Sheku Bayoh. (PIRC-00274) This statement was taken by Maurice Rhodes and Kareen Pattenden. When would you have seen this statement following 4 June? When PIRC’s terms of reference were expanded did you, or any person at PIRC, consider this statement as relevant to PIRC’s investigation into the issue of race? Please explain why, or why not.**

**Response:** I read this statement on 5 June 2015. I have no recollection around this term used in PC Good statement and I did not raise an action for all statements to be checked in a manner you prescribe. If the use of this word in this context was deemed to be considered in a racial manner I would have expected some instruction or guidance from COPFS as they had copies of all the statements.

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209. On 2 July PIRC submitted a Minute to the Lord Advocate, identifying Dr Jason Payne-James, Professor Robert Flanagan, Dr Steven Karch and Robert Volguardson as potential expert witnesses (COPFS-06005). The Minute also included an expert witness package to be sent to experts who were instructed. Did you have any role in preparing the Minute? Did you have any role in identifying the recommended experts? Did you have any role in compiling the expert witness package? Who at PIRC was responsible for the creation of the expert witness package?

**Response:** My recollection is at that time Keith Harrower was responsible for the identification of expert witnesses and also the compiling of the expert witness package.

210. On this day, the family’s legal representative wrote to PIRC outlining 53 issues of concern for the family (COPFS-04726 (a)). Please provide your own views on the contents of this letter and whether you recall how the PIRC dealt with the letter. Did you consider the concerns raised to be legitimate? If not, why not? Did the PIRC deal with all 53 issues of concern? If not, why not?

**Response.** The response to this letter was undertaken by Ms Frame Commissioner a copy of which has been supplied to the Inquiry. The legitimacy of the concerns is not for me to comment upon. Mr Anwar believed them to be legitimate and the Commissioner has responded in a manner she felt appropriate.

211. On 15 July Ian MacIntyre emailed Police Scotland stating “We are still monitoring social media, for your information and that of Fife intel, can you view the ‘justice for Sheku Bayou’ [sic] website regarding derogatory remarks made by an Ed Taylor, which prompted a response from Zahid Saeed”. (PS09864) What was the purpose of this email?

**Response:** I have no recollection of this and Ian MacIntyre would need to answer this point.

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212. **Why was PIRC monitoring social media?**

**Response:** PIRC were not monitoring Social Media. Please see my response to Q121

213. **On 16 July 2015 John McSporran emailed you a document headed “Relevant communications within Police Scotland and with the Family of Deceased, etc. on 3 May 2015” (PIRC-04015 and PIRC-04015(a)). Who drafted this document? Why was the document drafted?**

**Response.** I do not know who drafted this document and I do not recall its existence given the passage of time, but in my opinion it is a timeline for reference to when considering what communication took place between Police Scotland and the family of the deceased on 3 May 2015.

214. **Under the heading “Opinion” the document states:**

*Police Scotland did not lie to the family about the death. However, they appear at some stages to have withheld information from the family and denied knowing key facts (which they were in possession of). They were slow to inform the deceased partner and his family of police involvement. Some members of the family appear to have misheard or misinterpreted the information they were given, which has given rise to their suspicions and subsequent allegations.*

**Did you agree with this opinion expressed as at 16 July 2015? Can you add any further explanation as to how “[denying] knowing key facts (which they were in possession of)” does not amount to lying?**

**Response:** the author of this document would need to answer that opinion. I cannot provide further explanation but in my opinion denying is to refuse, whereas lying is being deceitful.

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215. **The document states:**

*PIRC are also of the view that members of the family misheard or misinterpreted the information they were given.*

**How did PIRC come to this conclusion? When investigating this matter, what consideration, if any, did PIRC give to taking further statements from the police officers who passed information to the family on 3 May 2015 in relation to their recollection of what the family were told on that day?**

**Response:** Again that is for the author of the document to explain. I did not give consideration to reinterview of the officers in this matter.

216. **Kate Frame responded to the family's legal representative's letter of 31 July 2015 on 7 August. Did you have any role assisting the Commissioner with her response (PIRC-02420(a))? If so, in what way did you assist the Commissioner?**

**Response** I have no recollection of this matter

**August 2015**

217. **On 19 August, DS Thompson of Police Scotland's Counter Corruption Unit was instructed by PIRC to carry out an audit of the police systems to establish who had accessed the records of the relevant individuals between 3 May 2015 - 18 August 2015, and in particular to establish if any of the nine principal police officers had accessed any of the records and, if so, to establish if this was for a legitimate policing purpose. Who at PIRC issued this instruction? Was DS Thompson accompanied by any member of PIRC staff while undertaking this audit?**

**Response:** I requested that this instruction be undertaken. No PIRC member of staff accompanied DS Thompson in this task.

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218. **In August, Keith Harrower travelled to Norwich to provide access to slides for Dr Cary. What were PIRC’s requirements in SOP or policy concerning the chain of custody and remaining with the evidence, in this case slides, whilst they were examined by an expert instructed by the family?**

**Response:** there is no SOP or Policy on this matter.

219. **Was Keith Harrower aware of any such requirements?**

**Response:** Please refer to Keith Harrower

220. **On 28 August you completed an entry in your notebook at the number (1) that appears to begin “Confirmed with Steven Karch that he does not” (PIRC04521 p.142) Please can you complete a transcript for this small entry and provide context as to what it relates. Was this a task to be completed that day? If so, was this task completed?**

**Response:** the text reads. ‘ *Confirm with Steven Karch that he does not require ‘Recuts’ for report only if there is a court hearing*’

I believe this was done as I have a small tick beside this text.

**September 2015**

221. **On 2 September, COPFS wrote to the Commissioner. (COPFS-02557) Were you aware of this correspondence at the time or subsequently? If yes, what changes did it render in your investigation?**

**Respond:** I do recall this further instruction, the changes it made is that each of the points was allocated out for action to a number of the investigation team detailed within my daybook entries dated 8 September 2015.

Signature of Witness



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**222. The letter asked the Commissioner to confirm that issues of race and whether there was any evidence of racial motivation was a primary focus in the PIRC investigation. Why was such confirmation required by COPFS? What did you understand was meant by “primary focus”?**

**Response:** I have no recollection as to what I understood back in 2015. What I can confirm is that from the outset the matter of race was under consideration at all times.

**223. On 3 September, there was a meeting between the Commissioner, the family and their solicitor, John Mitchell, Alistair Lewis, Michael Tait and yourself. Please provide details of what was discussed and how the relationship with the family was at this meeting. Were the family satisfied with the investigation being carried out by the PIRC? Did you take notes of this meeting beyond notes in your notebook at the time (PIRC04521)?**

**Response:** I took no additional notes, my recollection of the meeting was that it was an opportunity for the family of the deceased and their lawyer to meet with Ms Frame. I do recall a degree of frustration from the family during the course of this meeting but I understood why this was as they were looking for definitive answers which at that time could not be answered. I do believe that at that time the family advised that they retained faith in the PIRC investigation.

This was also to the best of recollection the first time that the matter of race had been raised by either the family or their lawyer in a meeting that I had been in attendance at. My recollection for this is that Mr Anwar brought up this subject using the terminology which was similar to *‘Can we discuss the elephant in the room’*.

I also recall the meeting was finished on a cordial note with the family and their lawyer agreeing the meeting had been useful and a desire to arrange future meetings.

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224. **Alistair Lewis noted that the "Commissioner assured family all investigators are diversity trained". Can you provide details as to what this training comprised? (PIRC-04152) What, if any, training had you completed by 3 May 2015 in relation to equality and diversity issues, or in relation to unconscious bias? What did this training involve? Which aspects of this training, if any, were applicable to your role?**

**Response:** As detailed within my response to Q6, I provided details of the training I could recall that I had undertaken with PIRC. This included training in Equality and Diversity. Prior to joining PIRC I also undertook training on this matter with Strathclyde Police but I am unable to provide exact details when this occurred and content of training I received both with the police and also with PIRC by 3 May 2015.

225. **Why was it decided that the Commissioner should meet with Sheku Bayoh's family at this stage? Is it common for the Commissioner to meet with the deceased's family during a PIRC investigation? What impact, if any, did the Commissioner's meeting with the family have on the family's relationship with PIRC thereafter? What impact did the meeting have on the investigation more generally?**

**Response:** I cannot recall the exact rational for this but I am aware that Ms Frame offered to meet with the family. Ms Frame may be able to assist in this regard. This is the only investigation that I ever recall the Commissioner meeting with relatives of a deceased at any time either during or after a PIRC investigation. To the best of my recollection the meeting did not have any impact on the investigation.

226. **Did you receive any training or guidance in relation to the role of a PIRC investigator following a death in police custody? If yes, did this encompass any specific training or guidance for a situation where the deceased person was Black or from another ethnic minority background?**

**Response:** No I received no such training on either matter.

Signature of Witness

A black rectangular redaction box covering the signature of the witness. Above the box, the text "I would sign this" is faintly visible.



227. On 3 September PIRC received a letter from Professor Peter Watson enclosing a copy of his letter to the Lord Advocate (of the same date) and a written document [REDACTED]

[REDACTED]

[REDACTED] Did you read this at the time? Do you recall what your thoughts were? Did you take any action on receipt of this?

**Response:** Whilst I cannot specifically recall the exact date I was made aware of the content of this letter. Upon checking my daybook for Monday 7 September 2015, I can see that at 1315 hours I was advised by Mr Mitchell that a journalist had been in contact with a PIRC media officer regarding this report. [REDACTED]

[REDACTED]

228. What impact, if any, did the investigations completed by PBW Law have on PIRC's investigation? If there was any negative impact on PIRC's investigation, what steps, if any, did PIRC take to mitigate that negative impact?

**Response:** I cannot recall if there was any impact other than the events of 7 September 2015 that which I have detailed.

229. On 7 September, it appears that you note that you were advised by John Mitchell that a freelance journalist had been on the phone looking for Kirsty to provide a comment on the information contained in the "P.W report" (PIRC04521 p.151) Was this a reference to Kirsty Gordon? What was the "P.W report"? What was the outcome of this?

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**Response:** My recollection of this is that Kirsty Gordon one of our media team had been advised that a journalist was looking for a comment in respect of P.W ( Peter Watson report). It related to the document [REDACTED] as detailed at Q227

**230. Later this day you noted “Apparently journalists looking out the next couple of days” (PIRC04521 p.152) Where did you learn this from? What did you understand had prompted this?**

**Response:** I have no recollection of what prompted the journalist to contact PIRC, but from reading my notes the inference is that they ( journalist) intended to publish a piece on this matter based on information within the Peter Watson report.

**231. Is it correct that on or around 8 September, Dr Karch contacted PIRC investigators to notify them he had been approached by journalists following publication of a Scottish Sunday Mail article on 30 August. Were you aware of this at the time? Are you aware of who at PIRC Dr Karch spoke to about this? Is it correct that investigators reminded him the matter was confidential and should make no comment? Was this advice reiterated in writing?**

**Response:** I have no recollection of this occurring on that date. I have no note in my daybook of this matter on this date.

**232. On learning of the media contacting a PIRC instructed expert, did PIRC take any action?**

**Response:** I have no recollection on this.

**233. On 11 September there was a meeting between COPFS and PIRC. Are there any minutes of this meeting? Who attended this meeting? What was discussed?**

**Response:** I did not attend this meeting

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Signature of Witness [REDACTED] .....

234. **Also on 11 September, you met with Police Scotland officers concerning the allegations made by Zahid Saeed against the police. You were to advise them of the criminal allegation against them. In your Inquiry statement you say that these officers were interviewed under caution around two weeks later. You note that this was “common practice” at the time, as PIRC did not have many criminal investigations. (SBPI-00255) Did you ask the officers not to speak to one another about the allegations against them?**

**Response:** No

235. **What was said during this meeting? Did DC John McGregor and DC Simon Telford ask any questions? If so, what was said in response?**

**Response:** They asked no questions as I told them that I was only meeting them to make them aware of the criminal investigation and that they were subject officers.

236. **In your Inquiry statement you explain the normal process for this was that you would write to the Professional Standards Department within Police Scotland and inform them of the instruction that PIRC had received from COPFS. In this matter you met with DC John McGregor and DC Simon Telford at Stirling Police Office in the presence of DSI Brian Dodd. (SBPI-00255) Why was the normal process not followed in this case?**

**Response:** On reflection the wording in my initial Public Inquiry statement is unclear it is now normal practice that PIRC would letter Police Scotland or any other policing body to advise them that a criminal investigation had been instructed by COPFS under Section 33 A (b) (i) of the Police, Public Order and Criminal Justice (Scotland) Act 2006. At that time this was not normal practice. I cannot recall when PIRC introduced the letter as described.

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237. **In your Inquiry statement you explain the advantages to informing an officer ahead of interview that there was a criminal investigation against them in that the SPF and a lawyer could then be involved. (SBPI-00255) What were the disadvantages, if any, to informing an officer ahead of interview that there was a criminal investigation against them?**

**Response:** I can think of no disadvantage in such circumstances.

238. **Who at PIRC drafted this file note auditing questions raised by the family's solicitor (PIRC-04134)? What was the purpose of this note? Was this note shared with any person at COPFS? If so, with whom was the note shared, what was the purpose of sharing the note with COPFS, and what response was received from COPFS?**

**Response:** I cannot now recall who prepared this note, but upon checking the properties for the document held by PIRC I see that it was authored by Irene Scullion. The purpose of it was in my opinion from reading it was to ensure that all the points raised by Mr Anwar were being addressed. I do not know if it was shared with COPFS or not.

239. **On 30 September, you note that you had a meeting with John McSporran as to resources. (PIRC04522 p.9) What brought about this meeting? Did you feel that this investigation was appropriately resourced at this point? If not, please provide details as to what would have been of assistance. Did you feel that PIRC was appropriately resourced at this point? If not, please provide details as to what would have been of assistance.**

**Response:** This was a general meeting on this subject as by that stage PIRC could no longer devote the majority of its resources to this one investigation. From the notes on my daybook, it can be seen that PIRC was having to resource another seven ongoing investigations. I needed clarity on who was available to attend to enquiries being conducted into this investigation. The matter regarding being resourced appropriately should be directed at PIRC Senior management.

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**October 2015**

**240. On 6 October PIRC investigators took a statement from Alison Shields who, as at 3 May, worked as Head of Corporate Communications for Police Scotland. This statement concerned Alison Shields being contacted by the journalist Colin Mackay who told her that he had heard that an officer had been stabbed and sought comment. (PIRC-00394) Did PIRC consider speaking to or taking a statement from Colin Mackay? If not, why not? What other steps did PIRC take to investigate who provided details to the media on the morning of 3 May 2015 that an officer had been stabbed?**

**Response:** I have no recollection on this matter due to the passage of time.

**241. On 12 October the Commissioner wrote to the Lord Advocate concerning expert witnesses. The letter states “Dr Karch is considered to be one of the world’s foremost experts in this field. (PIRC-04246) Do you know what the source of this view held by the Commissioner was?**

**Response:** I have no knowledge regarding this comment in the Commissioners letter.

**242. On 16 October the family’s solicitor contacted the Commissioner and expressed concerns about an apparent investigation being carried out on the instruction of Professor Peter Watson and the actions of his investigator, John Sallens. An email from John Mitchell on 19 October forwards this correspondence to you and states “as discussed” (PIRC-02503) What did you discuss with John Mitchell? Did you have any view on their actions?**

**Response:** After this passage of time I cannot recall what was discussed with Mr Mitchell other than being made aware of this communication which I passed onto my incident room. My views on reading this email now is that the actions of Mr Sallans would not have been helpful to the PIRC investigation.

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**243. On 20 October the Commissioner wrote to Professor Watson in connection with the actions of his investigator, John Sallens. (PIRC-02379(a)) Did PIRC take any other action in response? Did you agree with the contents of the Commissioner's letter to Professor Watson?**

**Response:** I am not aware of other action being taken. Ms Frame has obviously been dealing with this matter and she will be better placed to answer.

**244. On 26 October you met with Superintendent Audrey McLeod and Chief Inspector Elizabeth Macleod (PSD) concerning PIRC's request of 19 October to Deputy Chief Constable Richardson concerning the audit of police systems in respect of racial incidents. (PIRC-00371) Was there any note made of this meeting? What was discussed, and what was the outcome?**

**Response:** Given the passage of time I have no recollection of this meeting, but on checking my notes it appears to be a meeting to discuss the practicalities of obtaining the information requested in this letter of 19 October 2015. Rough notes have been taken in my daybook for that date on the five points raised in this letter.

**November 2015**

**245. On 1 November, the Scottish Sun on Sunday quoted Dr Karch in an article about the death of Sheku Bayoh. What discussions do you remember taking place internally at PIRC at the time following this?**

**Response:** Given the passage of time I have no recollection of this, however on checking my daybook for 3 November 2015, I can see that I have made a note at 1400 hrs re a meeting with Mr Mitchell and John McSparran which was in relation to a meeting Mr Mitchell had, had with COPFS re the comments attributed to Dr Karch in the Sunday papers. I was tasked with contacting Dr Karch by telephone regarding this article.

This I did at 1545 hours that day.

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246. **Did you consider proactively contacting the family's legal representative about this article?**

**Response:** My recollection is No.

247. **You spoke to Dr Karch by telephone. You reminded Dr Karch of the confidential nature of the investigation and re-iterated that Dr Karch should not enter into discussion with the press in relation to any of the matters under investigation. PIRC had previously emailed Dr Karch on 8 September and asked him to refrain from making comment on the matter referred to him by PIRC. (PIRC-02034) What day did you speak to Dr Karch? What were the consequences of Dr Karch's comments?**

**Response:** I spoke to him on 3 November 2015. I recall that following this newspaper article I was advised that COPFS had lost confidence in Dr Karch. What was meant by that I do not recall.

I do find it strange that of all the expert witnesses engaged in this enquiry Dr Karch's details were the only ones which appear to have been released to the media by an unknown person and contact made with him in what appeared to be an attempt to discredit his findings.

248. **Was anything further done in relation to Dr Karch's comment other than your telephone call to him? Was any formal action considered in relation to Dr Karch's position as an expert witness for PIRC? Did any person at PIRC consider apologising to the family of Sheku Bayoh?**

**Response:** I am not aware of anything further being done or any formal action considered. I am not aware of any consideration being given to apologising to the family.

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249. **On 3 November you had a meeting with John Mitchell and John McSporrان at 14.00. (PIRC04522 p.31) Is it noted that this was in light of the meeting attended by PIRC with Stephen McGowan of COPFS? It appears this meeting concerned the comments of Dr Karch to the media. Please can you provide a summary as to what was discussed with COPFS in this meeting.**

**Response:** See my response to Q245

250. **On 2 November John Clerkin noted on Clue that he had been informed by you he was no longer required to complete an action related to obtaining CS Spray/PAVA discharge forms from Police Scotland in connection with the spray discharge on 3 May. He noted you had instructed him this action was not required following your further contact with Police Scotland. (PIRC-02926) What was discussed between you and Police Scotland? Why were the forms no longer required?**

**Response:** I have covered this area in my original statement to the Public inquiry para 78 to 81.

251. **In a PIRC investigation directed by COPFS is there a legal requirement for incapacitant spray forms to be submitted by Police Scotland / its officers to PIRC? If so, what is the basis of this legal requirement?**

**Response:** See Q 250.

252. **On 4 November PIRC wrote to COPFS confirming that an audit confirmed that no searches were carried out concerning Sheku Bayoh on the police systems by the officers involved in the restraint and arrest. The Commissioner confirmed that a further audit to investigate who else within the police carried out searches was continuing. (PIRC-02034) Were you aware of this correspondence between the Commissioner and COPFS? Were you content with the assistance supplied by Police Scotland at this time? If not, why not?**

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**Response:** Yes

253. **On 6 November the family’s legal representative wrote to PIRC concerning Dr Karch’s actions (PIRC-01858). The letter also queried PIRC’s apparent reliance on comments made by Dr Cary to a PIRC investigator apparently endorsing Dr Karch as an expert. The letter sought the identity of the PIRC investigator to whom Dr Cary had spoken. The letter also queried why the PIRC investigator had left Dr Cary with the slides. Do you remember receiving this letter at the time? Please provide your recollection of what happened and how you felt the PIRC handled this issue.**

**Response:** I do not recall seeing this letter which was addressed to Ms frame.

254. **Why did PIRC not identify the investigator who had attended Norwich?**


**Response:** This was a matter handled by PIRC Senior management.

255. **On 10 November you were given access to Police Scotland’s Centurion complaint database. Police Scotland had identified 33 allegations, criminal complaints or misconduct complaints of racism or racist behaviour held which police officers who either served or had served in the Fife area. (PIRC-00371) Do you recall what your investigatory strategy was at the time to investigate this aspect of COPFS instruction, beyond looking at the complaint data available?**

**Response:** My investigative strategy for this aspect was as detailed within my statement and that which you list at Q256.

256. **In your Inquiry statement you detail that you researched each of the 33 allegations by looking at:**

- **If any of the nine police officers involved in the restraint of Sheku Bayoh featured in any of the complaints;**

Signature of Witness  .....



- **If Sheku Bayoh, his family members, or any of the “principal witnesses” featured in any of the complaints; and**
- **If any of the police officers/police staff among the “list of nominals held on the PIRC database relating to the investigation” featured in any of the complaints. One such officer was identified.**

**You explain that a statement was not sought from the officer “as his involvement was not connected to the PIRC enquiry”. (PIRC-00371) What does it mean that an officer’s involvement was not connected to the PIRC enquiry?**

**Response:** My recollection is that the complaint related to a member of the Bayoh family and that the officer subject to that complaint was not a police officer connected to the investigating into the death of Mr Bayoh.

Details are contained within the PIRC report submitted to COPFS in August 2016

**257. Did you undertake any further analysis of the complaints data in relation to the Fife area? If so, what did this analysis entail?**

**Response:** Following the passage of time I cannot recall

**258. Did you undertake any further analysis of the complaints data in relation to the police in Scotland more widely? If so, what did this analysis entail?**

**Response:** No further analysis was undertaken

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**December 2015**

**259. In December you travelled to Belfast to meet with the expert Professor Jack Crane. You explain in your PIRC statement that Professor Crane indicated that he wished to be alone during this examination of the histology slides. (PIRC-00371) Did you leave Professor Crane with the histology slides? What was the PIRC SOP that provided guidance on this area? What did it direct? If Professor Crane was left with the histology slides, does it obviate the efforts made prior to this to deliver the slides personally to expert witnesses?**

**Response:** Once I attended and upon briefing Prof Crane, it was apparent that he would be unwilling to undertake his examination of the histology slides in my presence. Despite previous agreement in this matter I decided that in order for the examination to be conducted it was better to agree to Prof Crane examining the slides out with my presence. My rationale for this was

- Prof Crane was an expert identified by the family and I felt that I should do everything possible to ensure that he undertook such examination.
- Whilst I left him alone with the slides I never left the building in fact I was sat next door to Prof Crane laboratory.

There is no PIRC SOP in respect of such a matter. The slides were always going to be delivered personally to ensure continuity of evidence and also to ensure safe transport given the histology slides are glass.

**January 2016**

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260. On 11 January 2016 you and John McSporrان met with C/Supt Carol Auld and spoke about some outstanding material required by PIRC. This included statements from officers concerning PNC checks completed. (PIRC-02235) Do you recall attending this meeting? What was your recollection of what was discussed at this meeting with regard to the data protection aspect of your investigation? Were you satisfied with the assistance PIRC was receiving from Police Scotland at this point? If not, why not?

**Response:** Given the passage of time I have no recollection of this meeting, the email PIRC-02235 would appear to cover the points discussed. I do not recall having any issue at that point with how Police Scotland were assisting.

261. On 12 January COPFS wrote to PIRC noting, amongst other points, that PIRC had anticipated the report would be ready at the end of January/early February 2016. (COPFS-02562) Was the report behind schedule at this point? What led to the completion of the report being delayed until August 2016 thereafter?

**Response:** I have no recollection of seeing this letter. I am also surprised re the timescale suggested in this letter for the final PIRC report given the amount of enquiries still ongoing at that stage.

262. This letter raises concerns around statistical analysis relating to institutional racism and emphasising the need to investigate issues of race, including around PC Paton’s history. The letter requested that the final report address:

Signature of Witness.  .....



*whether there is any indication that race influenced the approach taken by officers either individually or collectively in the response to the incident. This should include consideration of whether the incident was perceived as a terrorist threat. The allegations against [REDACTED] should also be addressed as part of the wider investigation into whether there is evidence of racist attitudes and behaviours within Fife Division.*

**Did this letter inform PIRC's investigation into the issue of race in any way? If yes, please provide full details.**

**Response:** As detailed within the PIRC report to COPFS August 2016, the matter regarding the perception of a terrorist event was investigated and that of threat level at the time of this incident were investigated. Similarly the incident involving [REDACTED] and [REDACTED] colleagues were investigated and no link between each of the three officers with the attending officers at the incident on 3 May 2015 established.

**263. Were you satisfied that the PIRC Report addressed these points? Did you consider any other approaches to investigating the issue of race that you did not end up pursuing? If yes, please provide full details.**

**Response:** I was satisfied that the points were addressed in the report August 2016. No further points in this area were suggest by COPFS following submission of this report.

**264. Were you satisfied with the investigation as it related to the incident on 3 May being perceived as a terrorist threat? If not, why not?**

**Response:** No there was nothing identified to suggest that this was a terrorist threat which I understand to be threat or violence to achieve a political, religious or social goal.

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**265. Was your briefing paper of 3 February 2016 prepared as a response to this letter? (PIRC-03693) Did this briefing paper lead to any further action or further instruction from any person at PIRC? If so, what action or instruction resulted from the briefing paper?**

**Response:** I do not recall preparing this paper but it is certainly an update for the information of Mr Mitchell as to where our enquiries were in respect of the areas identified in my paper. I cannot recall what or if any actions arose from this paper I submitted.

**266. On 28 January you and John McSporran met with then-Detective Chief Superintendent Cuzen, Detective Sergeant Dewar, Superintendent McLeod and Duncan Campbell. This concerned the data protection aspect of PIRC's investigation. Do you recall attending this meeting? What was discussed at this meeting?**

**Response:** I do recall this meeting which was in relation to a number of points. From my daybook I have recorded an issue with Police Scotland releasing telephone records that they held and also seeking to identify a suitable person within Police Scotland who could explain why Police Scotland had raised and held intelligence on Mr Aamer Anwar. At that time it was identified that Supt K Dewar would supply such a statement to PIRC.

**267. What were your views at this time as to the actions of Police Scotland towards this aspect of your investigation? Were you satisfied with the assistance they were providing? If not, why not?**

**Response:** This aspect of the PIRC investigation was not bring progressed satisfactory, my recollection is that when I had initially asked Police Scotland for the telephone records they had stated that no such records were held.

Signature of Witness  .....

This was contrary to an email I had seized some time earlier which confirmed that such records were held. It was only at this meeting they confirmed that they did hold the telephone records but were seeking legal advice on the records being passed to PIRC. This did happen later and I was able to examine the records as detailed with PIRC Report to COPFS August 2016.

**268. Is it correct that at this meeting Detective Sergeant Dewar agreed to PIRC's request to provide an overarching statement justifying Police Scotland's gathering and processing of intelligence on the family's legal representative? Was this statement provided? Did you feel Police Scotland were appropriately and promptly assisting PIRC with their investigation?**

**Response:** This statement was not provided by Supt Dewar when I contacted him following this meeting he explained that he would be shortly retiring from Police Scotland and was not supplying a statement. So the matter was not being dealt with promptly or appropriately.

**February 2016**

**269. On 2 February 2016 Detective Chief Superintendent Cuzen wrote to you responding to PIRC's request that [REDACTED] phone be examined for communications with attending officers (PS05037 [REDACTED]). The letter states:**

*In the first place, and with respect, it is for PIRC to set out, clearly, the basis in law for the foregoing request it makes of Police Scotland in this connection. It is not, properly understood, for Police Scotland to explain to PIRC where it thinks the letter may be straying beyond its powers.*

**Did you agree that PIRC needed to set out the legal basis for this request? Was it appropriate for Police Scotland to question the appropriateness of PIRC's request? If not, why not?**

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**Response:** This is a matter that was addressed by Mr Mitchell.

270. **In the letter, DCS Cuzen, on behalf of Police Scotland, expresses concerns around data protection. Did you consider these concerns were valid? If not, why not?**

**Response:** This is a matter for Mr Mitchell..

271. **Did you agree with the contents of the letter sent by John Mitchell in reply on 9 February? (PIRC-02304(a)) Did you feel that Police Scotland were being obstructive in this regard, or did you consider Police Scotland were entitled to require a formal request for evidence of this nature?**

**Response:** I agree with the contents of Mr Mitchells letter and I did find during this aspect of the investigation that Police Scotland were not assisting in the manner I expected.

272. **In early February 2016 Detective Sergeant Dewar retired prior to providing the agreed statement. Had this been discussed at the meeting on 28 January? What impact, if any, did his retirement have on PIRC's investigation?**

**Response:** Supt Dewar had been identified during course of meeting of 28 January as the person who would provide an overarching statement on the matter of intelligence. So additional enquiries had to be undertaken with Police Scotland to find a suitable officer to undertake this statement.

273. **On 5 February, you met with Les Brown. The note of this meeting states:**

*Mr Brown asked to know when the Commissioner was back from her holidays and when she is it is for her to decide what powers she should use, I asked Mr Brown to explain what powers he meant and he alluded that the Commissioner has significant powers and it is for her to decide when to use them.*

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**The conversation continued referring to telecom material. (PIRC-02771) What prompted the discussion around the Commissioner's powers? Did you feel that COPFS were providing appropriate guidance and support to PIRC? If not, why not?**

**Response:** My recollection is that I had made Mr Brown aware of the issue regarding the reluctance from Police Scotland to supply the telephone data and that I may have to seek a warrant from him on this matter or that COPFS consider handing the data directly to PIRC given it was evidence in an ongoing criminal investigation. I felt that MR Browns answer was unsatisfactory as I did not know what powers he was referring to and he could not explain them to me.

**274. Did you discuss this meeting with the Commissioner on her return? If so, please provide details as to what was said and any action that resulted.**

**Response:** I have no recollection although I would have updated my managers on this issue.

**275. The note of this meeting also states that you advised Les Brown of concerns surrounding that audit of [REDACTED], [REDACTED] and [REDACTED]. (PIRC-02771) Can you provide any context as to what audit this referred to? What were the concerns?**

**Response:** The statements provided by the three witnesses had been identified in the audit I had Police Scotland conduct into all their systems as detailed within Section 16.2 Wider allegations of offences under the Data Protection Act 1998 of the PIRC report submitted to COPFS in August 2016.

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276. **You note you had asked Police Scotland to provide an overarching statement regarding the content of the statements and explain the information contained therein and confirm it was lawful, proportionate and justified. You note Les Brown expressed concern regarding the practices and confirmed he wanted a statement from a senior officer regarding the practices within each of the statements. Did anything further come of this exchange with Les Brown? Was this statement provided by Police Scotland?**

**Response:** Yes, statements were provided on 11 April 2016 by Detective Inspector Ramsay Wilson

277. **On 17 February you and John McSporrان met with then-Detective Chief Elaine Superintendent Simpson. Were any minutes taken of this meeting beyond your notebook? (PIRC04522 p.109 and PIRC-04200 p.48) Is it accurate that DC Simpson's view was that the three officers should be asked about the statements and DC Simpson would clarify what happened to the logs in question? (PIRC04522 p.109)**

**Response:** Given the passage of time I cannot recall the exact conversation although I made notes as you have identified.

278. **Did you feel Police Scotland were appropriately and promptly assisting PIRC with their investigation? If not, why not?**

**Response:** I felt that they were dragging their heels over this aspect as nobody appeared able or willing to provide the over arching statement that had been requested and agreed in the meeting of 28 January.

**March 2016**

Signature of Witness  .....



279. **On 1 March, Superintendent McLeod wrote to PIRC and refused to approach Police Scotland officers and staff for further statements concerning the searches carried out against Sheku Bayoh, his family members, and witnesses' names on police systems. Superintendent McLeod offered comment as to officers' actions. ( [REDACTED] PS11801) Did you feel Police Scotland were appropriately assisting PIRC with their investigation?**

**Response:** My recollection is that this meeting of 28 January 2016 covered a number of areas, one of which was related to the statements provided in support of the audit I had asked Police Scotland to undertake. In particular they did not provide a policing purpose as to why each officer or member of police staff had conducted such a check.

Supt Mcleod letter to Mr McSporran provided a generic explanation as to why this had not been recorded and thereafter provide an explanation of each of the statements which had not identified a policing purpose.

I did feel that this explanation from Supt Mcleod addressed this matter.

280. **Chief Inspector McLeod of PSD undertook the audit of systems in respect of this part of the investigation. Chief Inspector McLeod stated verbally to you when providing the audit report that she had checked the report and found nothing amiss. Was this provided to you on 10 March? (PIRC-04200 p.51) .**

**Response:** On 10 March 2016 Supt Audrey Mcleod returned to me

- Record of Police Scotland Audit x 35
- Record of Police Scotland Audit x 5

The above documents I had taken possession off from Police Scotland in 2015, I had then returned the documents back to Chief Inspector Macleod on 2 February 2016 when I asked that further work be undertaken. The documents were thereafter returned to me 10 March 2016. I do not remember Chief

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Inspector Macleod making this statement to me ( Are you able to assist and identify the document where this is recorded to assist in providing comment)

**281. It is noted by PIRC that when the audit report was examined it was apparent that, in some instances, the reason for police officers or staff undertaking checks was not given and it was not possible to determine whether checks were undertaken lawfully. Did you revert to Chief Inspector McLeod on this point? If so, what matters did you raise with Chief Inspector McLeod?**

**Response:** please see answer to Q280.

**282. On 17 March, PIRC received a statement from PS Bassano who provided an overview of Police Scotland procedures in respect of the handling of intelligence (PS05036). Was this sufficient for PIRC's investigation? If not, why not?**

**Response:** This statement was not deemed suitable as previously this overarching statement was going to be provided by Supt Dewar who had suitable experience and position within the organisation to provide the detail and rational required. The statement from PS Bassano whilst explaining how the SID system operated did not provide any explanation as to why intelligence had been raised and held by Police Scotland on Mr Anwar. So I referred this matter back to Police Scotland.

**283. On this day you emailed Chief Inspector McLeod seeking statements from both of the officers that undertook the Police Scotland audit into access various intelligence systems. (PIRC-02198) Were these statements provided? If not, why not? What impact, if any, did this have on PIRC's investigation?**

**Response:** The statements were provided as requested, this had no impact on the investigation as the information relating to the audits had been provided in the form of briefing papers some weeks earlier.

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**284. Was a meeting held at this point in the investigation between PIRC and Police Scotland senior management at which it was said a senior officer would provide a statement as to Police Scotland’s reasons for gathering and storing intelligence on the family’s legal representative?**

**Response:** I cannot recall this meeting or where it was held but I have recorded in my daybook that I had a meeting on 11 March 2016 with Supt Audrey Mcleod during which I have recorded four points the last of which I queried the statement from Detective Chief Superintendent Mason, who I recall was put forward to provide this overarching statement in relation to the raising and holding of intelligence.

**285. If so, when was this meeting, who attended, and were minutes taken? Do you recall what was discussed?**

**Response:** Please see response to Q284

**286. Was this meeting the meeting with Superintendent McLeod referenced in your notebook? (PIRC04522 p.139-141) Please can you provide a transcript of your notes on page 141? Who attended this meeting from PIRC? What date did this meeting take place? Were notes taken of the meeting? What was the outcome?**

**Response:** This meeting took place on Friday 11 march 2016, I cannot recall who was present and I have not noted another person present other than Supt Mcleod the entry in my daybook are the notes which read.

- 1 Certificates signed
- 2. Transaction records returned
- 3. Asked by Orange info from [REDACTED] phone confirmed they do have, she was instructed by C/Supt Auld that it was NOT to go to us following meeting with DOI last week (DOI states that not case).
  - A. McL has emailed C/Supt Auld again.
- 4. D C/Supt Mason still no statement again she emailed C Auld about that no reply sent further email

Signature of Witness [REDACTED]



The outcome was that PIRC still had no confirmation that an overarching statement was being provided by a suitable qualified police officer.

**287. On 21 March, you noted you were awaiting a meeting with Chief Superintendent Carole Auld. (PIRC04522 p.151) When, if at all, did this meeting occur?**

**Response:** I have no recollection of this

**288. On 31 March, John Mitchell spoke to Chief Superintendent Auld (PIRC04522 p.160-161) Can you please summarise what was relayed to you from this conversation?**


**Response;** As recorded in my notes I was advised by Mr Mitchell that the Orange telephone data which Police Scotland had initially denied to have then refused to hand over would now be made available to me. C/Supt Auld would speak with Mr Mason regarding this statement we had requested

**April 2016**

**289. PIRC were told by Chief Superintendent Auld (Head of PSD) that DI Anderson of the National Intelligence Bureau would provide an overarching statement. You contacted DI Anderson as to this and DI Anderson declined to provide a statement. You reverted to Chief Superintendent Auld and asked as a matter of urgency for an officer to be nominated to would provide an overarching statement. What was your view of the actions of Police Scotland at this time?**

**Response:** Quite simply that no person of suitable authority was prepared to provide a statement which explained their actions in raising and holding intelligence on Mr Anwar.

**290. Was there any avenue for escalating this matter within Police Scotland? If yes, did you do this or consider doing this?**

Signature of Witness  .....

**Response:** I cannot recall if any such action was taken, I along with Mr McSporran and Mr Mitchell were already dealing with the Head of Professional Standards and had previous meetings with their Head of Intelligence on this matter.

**290. Was there any avenue for escalating this matter within PIRC or COPFS? If yes, did you do this or consider doing this?**

**Response:** The challenges being faced on this area was already known to Mr Mitchell and Ms Frame who would attend the briefings when this was being discussed. I had previously raised the issue of refusal from Police Scotland to hand over telephone data with Mr Brown at COPFS but he had dismissed any consideration of a warrant by directing me back to the Commissioners powers, what powers he thought the Commissioner had I do not know.

**291. What discussions, if any, did you have with COPFS in relation to the searches carried out against Sheku Bayoh, his family members and other witnesses by Police Scotland officers and staff? What consideration, if any, was given to obtaining statements from the officers and staff, under caution or otherwise?**

**Response:** I do not recall having any discussion on this matter with COPFS, I had very little direct contact with COPFS this was done by the Commissioner and Mr Mitchell. COPFS were fully aware given it was included within the first PIRC report dated August 2015. I am not aware of any consideration being given to such a course of action.

**292. On 11 April DI Ramsay Wilson provided a statement in which he states he was instructed to review statements relative to use of Scottish Intelligence Database (SID) as provided in statements of [REDACTED], [REDACTED] and [REDACTED]. DI Wilson states he viewed the SID log which was referred to by [REDACTED], but was not provided with the SID audit trail relevant to the intelligence log/nominal record under consideration and as a result:**

Signature of Witness [REDACTED] .....



*From the information provided to me, I am unable to offer opinion as to who included 'REFRACT' in the relevant header or as to whether this was appropriate. (PIRC-00487)*

**Were you satisfied with the statement received from DI Wilson?**

**Response:** My recollection on this matter is that we were not happy with the initial statement provided by DI Wilson, I do recall that John McSporrán and I had a meeting with DI Wilson on this matter, this resulted in an additional statement being provided by DI Wilson.

**293. At any point were statements provided to PIRC by [REDACTED], [REDACTED] and [REDACTED], beyond their self-penned operational statements? If not, did PIRC ever ask to take statements from these three individuals? What was the result of that request?**

**Response:** No further statements were obtained, Please see my response to Q 346 on the matter of additional statement requests.

**294. On 29 April further information was received from DI Wilson. It confirmed “a review of intelligence relevant to legal representatives is ongoing. Material specific to Mr Aamer ANWAR forms part of this review”. The review identified that information about Aamer Anwar’s lawful business practice was incorrectly recorded as intelligence and that information now removed from SID and a report submitted to PSD for a “conduct assessment flowing from the actions of those officers identified within the PIRC correspondence”. [REDACTED] ) Were you satisfied with this statement? Did it address the outstanding investigatory queries? If not, why not?**

**Response:** This statement confirmed that the information had been incorrectly recorded as intelligence. Details were included in the final report to COPFS. They later instigated further enquiries to be undertaken by the Information Commissioner so it would appear that they did not think it was a satisfactory response.

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**295. Did you, or PIRC, receive anything further from Police Scotland on this point? If so, what did PIRC receive from Police Scotland?**

**Response:** Due to passage of time I cannot recall receiving anything else.

**May 2016**

**296. On 6 May T/ Ch Superintendent Auld sent a letter to PIRC concerning the [REDACTED] aspect of the PIRC investigation<sup>1</sup>. (PIRC-02309(a)) Do you recall your thoughts on receipt of this letter? Were these concerns expressed by Police Scotland discussed any further? What was PIRC's view on the conflict observed by Police Scotland between PIRC's statutory powers and other legislation? How was this matter resolved?**

**Response:** I do not recall being made aware of this letter although it is clear from the email trail that it was forwarded to me a number of months after it had been dated as being prepared. There is no message on the email trail to me so I do not know if I was asked to do anything. Mr Mitchell would need to respond to the other matters that you ask and confirm when this letter was actual received by him.

**297. Around 10 May the family met with the Lord Advocate. It appears from your notes that after the meeting "J.M." spoke to Stephen McGowan. (PIRC-04523 p.39) Was this John Mitchell? Did PIRC attend the meeting with the family? If so, who attended?**

**Response:** J.M will be John Mitchell. I am not aware of any PIRC representative attending this meeting.

<sup>1</sup> The letter is dated 18 February 2016 however the covering email reflects the date of sending as 6 May 2016.

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**298. Please can you provide a summary of your notes of the comments made by “J.M.” following his discussion with Stephen McGowan? (PIRC-04523 p.39) The text appears to read “PIRC not impartial” – is this correct? What was the context for this?**

**Response:**

Paramedics  
PIRC not Impartial  
Crane-Chase up report  
P/Scot- Data t/Comms to get  
Ensure paramedics statements are in depth

JM spoke with Stephen McGowan after the LA met with family

I cannot recall but I surmise that this was a quote which was said to the Lord Advocate during his meeting or in statement made by Mr Anwar following this meeting.

**299. It appears from your notes that there was a meeting on 13 May between PIRC and Police Scotland. (PIRC-04523 p.41-43 and PIRC-04200 p.61) What did this meeting relate to? Please consult your notes and provide a list of the attendees at this meeting and any recollection as to what was discussed at this meeting?**

**Response:** In attendance at meeting were C/Supt C Auld, C/Supt C Cuzens, Duncan Campbell Police Scotland lawyer, John McSporrans John Mitchell and I.

The matter discussed were according to my notes, why it is perceived that the incident on 3 May 2015 is a racial incident.

Challenge re [REDACTED] telecoms data and the legislation under which it was obtained and particular challenge to Police Scotland that would allow them to hand this data over to PIRC.

Signature of Witness

[REDACTED SIGNATURE]

Duncan Campbell asked that COPFS bring some resolution to the challenge of handing this data over, given they hold it for an ongoing criminal matter reported to them.

There was a suggestion during this discussion that advise should be sought by Police Scotland from the Interception of Telecoms Commissioner (Written by me as AEKO rather than ICOA)

**300. Please can you provide a summary of the pages p.41-43 of your notebook (PIRC-04523) Please provide a transcript of the final paragraph beginning “C. Auld: P/Scot does not believe” on page 43 (PIRC-04523). What was the outcome of this meeting?**

**Response:** See Q299- for the summary of my notebook

C Auld- P/Scot does not believe that S.44 squares with their data & reason ????(word illegible) about them

She asks about the 9 officers status to wash the numbers across the data.

**June 2016**

**301. On 14 June, your notebook contains an entry headed “Scottish Information Commissioner” with contact details and a note that appears to read “getting a copy of the Quoich report”. (PIRC-04523 p.54) On 15 June, you provided the ICO with a letter and copy of the Report (PIRC-02341(a)). Did you provide any other information, such as a briefing to the Information Commissioner? What resulted from this?**

Signature of Witness  .....



**Response:** my recollection on this matter is that PIRC had received a Freedom of Information request, seeking a copy of the PIRC report to COPFS. This request had been declined by PIRC and the applicant had appealed this decision to the Scottish Information Commissioner ( SIC). In order that the Scottish Information Commissioner assess this appeal PIRC was instructed to provide a copy of the report submitted to the Lord Advocate on 10 August 2015. I hand delivered a confidential copy to the SIC. I recall being advised that they had considered and refused this appeal and the confidential copy destroyed.

**July 2016**

**302. On 22 July 2016 the family’s solicitor wrote to PIRC expressing concern that he had not received any correspondence from PIRC since 12 November 2015 (PIRC-01861) Was this accurate? Were you aware of this correspondence at the time?**

**Response:** I cannot recall seeing this letter but my recollection on this matter of maintaining contact is that during the course of the meeting of 3 September 2015 that the Commissioner had with the family and their legal representative, I spoke with Mr Anwar regarding maintain Family Liaison updates on the progress of the PIRC investigation to which he responded that this would not be necessary as he would be dealing directly with ‘Frank’. When I asked him who Frank was, he stated the Lord Advocate and that is who he would now deal with.

It was agreed at the end of this meeting that future meetings would be held. These meeting did not occur despite to the best of my recollections efforts by the Commissioner to organise same.

There is an entry within the Family liaison policy book dated 21 October 2015, which makes clear that Mr Anwar is making direct contact with the Commissioner. The FLO has written that he has ensured with the family that they have his contact details and he is available anytime if they wish to contact him.

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**303. On 25 July 2016 John McSporrان wrote in reply to the family’s solicitor (PIRC-02446(a)). The letter notes that PIRC did not receive a response to their offer of a meeting in December 2015 and makes a further offer of a meeting with the family. Who had responsibility within PIRC for liaising with and updating the family in 2016? Would you expect PIRC to have contacted the family (via their solicitor) proactively to provide updates as to the status of their enquiry, regardless of the contact they received? If not, why not?**

**Response:** By 2016 Mr Anwar and the family had withdrawn from contact with the appointed family liaison meetings as detailed within my answer at Q302 and as confirmed by the offers of future meetings which were not taken up.

**August 2016**

**304. On 10 August, PIRC submitted its report (‘the Report’) to COPFS. What was the process of the Report being written? Were earlier drafts of the final Report retained?**

**Response;** No

**305. There is an entry in your notes on 3 August which seems to suggest you made some notes on the Report at this point. (PIRC-04523 p.69) Did you assist with the preparation of the Report? If so, how?**

**Report:** My recollection is that the majority of this report was authored by John McSporrان, I did assist in some aspects which from memory was mainly in relation to the areas concerning the complaint made by Zahid Saeed and also the areas in relation to the audits undertaken by Police Scotland. I also assisted in preparation of the witness and production schedules which accompanied this report.

**The PIRC Report**

Signature of Witness

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**306. Were you satisfied with the content of the Report in term of its completeness, i.e. did you feel it adequately addressed all of the terms of reference set by COPFS? If you have any comment to make as to this, please expand.**

**Response:** Yes

**307. Were you satisfied with the thoroughness of the PIRC investigation and the analysis conducted in the Report? If you have any comment to make as to this, please expand.**

**Respond:** Yes


**308. Did you consider that the Report had been submitted to COPFS in a timely manner? If not, why not, and what was the cause of the delay in submitting the Report?**

**Respond:** Yes bearing in mind the interim report had been submitted in August 2015 and there was situational reports submitted which ensured that COPFS who had instructed this investigation were aware of the progress and direction being taken by PIRC.

**309. Were you aware of COPFS imposing any obligations as to timescale for submission of the Report on PIRC?**

**Response:** I have no recollection of that.

**October 2016**

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**310. On 4 October Les Brown asked PIRC for assurance that all of the statements submitted had been checked for accuracy and that there were no omissions. It was noted that there were discrepancies between the handwritten statement of Ashley Wyse and the typed version. PIRC was asked to provide an assurance that all typed statements had been proofread and have been compared with the original handwritten versions for accuracy. The Commissioner stated that this process had been undertaken. Who at PIRC completed the task of checking the statements as requested by COPFS?**

**Response:** Given the number of statements to be checked all PIRC investigations staff were allocated to this task

**311. There are various notes in your notebooks on 25-26 October 2016 indicating that you may have assisted with a review of the statements. (PIRC-04523 p.115-118) Please can you detail what steps you took?**

**Response:** I did assist with this review both in the allocation of batches of statements to the investigation staff and also undertaking checking of a number of individual statements.

My recollection of this matter is that I allocated a batch of statements to a pair of investigators and I asked them to examine the original copy against that which was held on the CLUE 2 system.

**312. Did it concern you that COPFS had identified these issues?**

**Response:** Yes it did as I had asked each of the investigators who was involved in taking a statement during the course of the investigation to quality check that original statement after it had been typed onto CLUE to ensure that it was accurate.

Signature of Witness  .....

**313. Did you, or any other staff member at PIRC, undertake any further checks beyond those identified by the Commissioner? If so, what checks were undertaken and by whom?**

**Response:** I have no recollection of further steps.

**314. On 27 October Stephen McGowan wrote to the Commissioner in relation to data protection concerns which had been highlighted in the PIRC Report; there remained a concern that that information was being collected and held without proper justification by Police Scotland. Therefore, in terms of s.33A(1)(b)(i) of the Police, Public Order and Criminal Justice (Scotland) Act 2006, Mr McGowan asked PIRC to investigate and report on the data protection concerns which had been raised. (COPFS-02567) Who was involved in investigating this?**

**Response :** I do recall this instruction. Given the sensitive nature of the investigation and the instruction to conduct a Crown Directed investigation under section 33 A ( b) (i) of the Act, I was advised by John McSporran that a separate PIRC Investigation would be undertaken under the operational name [REDACTED]. My recollection is that access to this operation was restricted to a limited number of staff including John McSporran and I. No investigation was undertaken other than some administrative tasks which were restricted to identifying the documents from the investigation into the events of 3 may 2015 which would have a bearing on this instruction from COPFS.

**315. What investigatory steps were taken? Do your notes on page 120-121 relate to this further instruction? (PIRC-04523) Please can you provide a transcript of these notes as they relate to this investigation?**

**Response:** No investigatory steps were undertaken as per my response at Q314. The notes on page 120-121 are in relation to this instruction and it is the administrative tasks I mention above.

My notes read:

Signature of Witness  .....  
DocuSigned by:



- JM (John Mitchell)
- IS (Irene Scullion)
- J McS ( John McSporran)
- WL ( William little)
- J.McA (John McAulay)

- Look out Intel re

Folder locked down  
 Spreadsheets  
 Media Holding Statement  
 Statement relating to a intel Logs.

To  
 Investigative strategy  
 TOR

1. Undertake reassessment of material held by PIRC Op Quoich in respect of Mr Anwar
2. Determine scope of investigation
  - ???? ( word illegible) all material held by psos respect of Anwar
  - Obtain & examine material to determine its acquisition process & use applies with DPA
  - Establish what guidelines issued to officers re gathering & storing 'Refract' CT
  - If examining of Anwar material that PSOS has gathered Intel/Info and that such gathering/process/storage  
 May also not be in accord with DPA obtain & exam material
  - Full access to SID

Management/Investigation

Investigation will be marked as sensitive by PIRC

Signature of Witness



.....



Access restricted to named staff  
CLUE will not be utilized as manged manually

Interview

Officers gathering Intel  
Officer Processing Intel  
Guidelines issue

Look out following

S363- [REDACTED] Wilson

S363 a “

[REDACTED]  
[REDACTED]  
[REDACTED]

S361 Katrina Thompson

S362 Stephen Clark

[REDACTED]

**316. When was the outcome of this investigation sent to COPFS?**

**Response:** There was no outcome sent, no investigation was undertaken and COPFS directed that the matter be referred to Information Commissioners Office.

**November 2016**

**317. On 18 November there was a further letter sent concerning the data protection aspect of the investigation from COPFS to the Commissioner. (COPFS-00533(d)) Were you aware of this further letter from COPFS?**

**Response:** I do not recall seeing this letter, as stated within my response to Q318 I do not recall the exact mechanism prior to the meeting I had along John McSporrان with representatives of the ICO which I note from PIRC-02076 (a) was on 17 May 2017.

Signature of Witness

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[REDACTED]

**318. PIRC were advised to inform the Information Commissioner's Office (ICO) of their initial findings and allow them to consider how best to progress the matter. Is it correct that it was subsequently agreed that COPFS would write to the ICO in the first instance and then PIRC would meet with them to discuss their findings? Was this done as intended?**


**Response:** I do not recall the exact mechanism but I along with John McSporrان did meet with members of the ICO and later supplied them with a number of documents.

**319. On 29 November, Les Brown (COPFS) wrote to PIRC with further instructions as a result of a reference in the Report to a belief held by certain attending officers that there may have been intelligence relating to an intention to cause harm to female police officers and an understanding that in the preceding months checks had been carried out at a number of identified locations in Kirkcaldy due to an increased terrorist risk (COPFS-02565). Were you aware of this further letter of instruction from COPFS? What investigations resulted from this letter of instruction?**

**Response:** I do recall this letter as a result further investigations were undertaken as detailed within the following documents which have been supplied to the Inquiry

- PIRC-03278 - Action 00499
- PIRC-03280 - Action 00501
- PIRC-03281 - Action 00502
- PIRC-03282 - Action 00503
- PIRC-03283 - Action 00504
- PIRC-03284 - Action 00505

Upon completion of the further investigations a letter dated 30 January 2017 was sent to COPFS which outlined details of the findings. PIRC-02065 refers which has also been sent to the Inquiry.

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Signature of Witness  .....

**February 2017**

**320. On 6 February John McSporran provided an update to COPFS in relation to the intelligence available on 3 May 2015 on the potential for a terrorist attack. John McSporran explained that Police Scotland were asked to research their intelligence and electronic briefing systems for the period 01.11.2014 to 03.05.2015. There was seemingly no intelligence returned in the various searches run and conflicting evidence in the further accounts from PC Good, PC Geddes, PC Paton and PI Kay. (PIRC-02065(a)) What, if any, further investigatory steps were taken in this regard?**

**Response:** I cannot recall if any further investigatory steps were taken, the matter was reported to COPFS as detailed within this letter and paperwork supplied. I cannot recall if they directed that further work be undertaken.

**321. On 17 February you and Maurice Rhodes attended a meeting with COPFS and handed over productions. (PIRC-04524 p.43) What productions? What was discussed at this meeting?**

**Response:** I have recorded within my daybook ( PIRC-04524) at Page 43 that at 10:15 hours on 17 February 2017, I along with Inv Rhodes met with Alastair Macleod. My recollection is that this was not a meeting in which matters were discussed but one in which I handed over each and all of the original documentary productions that had been ingathered by PIRC during the course of its investigation to date to Mr Macleod, with the exception of the FLO ( Family liaison logs). There were hundreds of documents and full details of exactly what they were can be found within [REDACTED] PIRC Production Registers. Where it is noted within the Movement of Production columns what productions were handed over on that date.

**322. On 23 February it was noted that the Expert Witness Package prepared by PIRC for earlier experts contained the incomplete version of Ashley Wyse's statement. Were you aware of issue at the time?**

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Signature of Witness [REDACTED] .....



**Response:** I did become aware of this issue exactly when I cannot recall

**323. Did this, and the other subsequent requests made by COPFS after August 2016 cause any concern for you as to the accuracy of the Report or the thoroughness of the PIRC investigation?**

**Response:** No obviously the matter regarding the omission in a paragraph of the typed statement from Ashley Wyse was concerning. Whilst this paragraph was missing from her statement sent to the Expert witnesses it was included in the summary of evidence prepared and included in the pack provided to the expert witness so this information was provided to each of them.

Further instructions or request from COPFS is to be expected and I have never worked on any major investigation that has not resulted in further requests from COPFS whilst they consider their decision.

**April 2017**

**324. In April, there is seemingly a note to “prepare additional report re Op Quoich” into “CCTV/Timeline” (PIRC-04524 p.82-38) When was this report prepared? Can you provide any further detail about what this report related to?**

**Response:** My recollection is that this was all in relation to the digital media presentation(S) that had been requested by COPFS and was being prepared by the Digital Media Unit at SPA Gartcosh.

**May 2017**

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Signature of Witness  .....

**325. You and John McSporrان met with senior representatives from the ICO. This meeting concerned the raising and retention of intelligence by Police Scotland on “members of the legal profession”. Following the meeting, Jennifer Walden of the ICO was supplied with a number of documents by PIRC to assist the ICO in determining if this was a matter that merited investigation by them. (PIRC-02076(a)) What was meant by “members of the legal profession”? What documents were supplied to the ICO at this meeting? Were notes or minutes taken of this meeting? What was discussed at this meeting?**

**Response:** This was a generic reference to the intelligence held on Mr Anwar and I believe how it had been referred to in the letters from the Crown Agent. I cannot recall if notes were taken if you supply my daybook for that date I may be able to assist. Documents supplied were.

Statements of

[REDACTED]

[REDACTED]

[REDACTED]

Shona Bassano

Ramsay [REDACTED] Wilson x2.

Audit Spreadsheet

Extract of PIRC report August 2016 re data protection issues.

From my recollection the matter discussed was in respect of the COPFS referral to the ICO regarding potential offences under the Data Protection Act by Police Scotland.

**326. A statement was not taken from Chief Superintendent Lesley Boal by PIRC, despite a Clue2 action which identified fourteen separate areas to be covered with her in a statement. The Clue 2 action notes as at May 2017 that “if required will be done on instruction of COPFS”. (PIRC-03069) Why was a statement not taken by PIRC from Chief Superintendent Boal?**

DocuSigned by:  
Signature of Witness [REDACTED]

**Response:** A detailed statement had been supplied by C/Supt Boal and upon reading this statement I decided that a reinterview was not essential that is why I had the action marked as pending on 28 May 2015. This is where it remained in the pending file until after the PIRC report had been submitted to COPFS. I then on 18 May 2017 marked this action as referred and it would be reopened if COPFS instructed given they were in possession of the full report and her original statement. I received no such instruction.

**June 2017**

**327. On 14 June you attended a meeting with COPFS. (PIRC-04524 p.115) What was discussed at this meeting? What was the update provided?**

**Response:** I do not specifically recall this meeting but from reading my notes with my daybook, I can see that I met with Alistair Mcleod at CAAPd offices and I handed over productions as detailed within a letter of receipt.

There was also an update provided by on an expert witness Michael Eddilston Edinburgh University. I do not have any recollection of this witness and it may have been an expert witness engaged directly by COPFS and the productions I handed over were for their use.

**Remainder of 2017**

**328. What was the role of Stephen Boyd to the investigation? (PIRC04525 p.24-26)**

**Response:** This is detailed within the PIRC document PIRC-03293- which was an Action raised following a request from COPFS to establish who wrote the Police Scotland Use of Force SOP SOP V1.03 and in particular who provided the medical input expertise.

Signature of Witness

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PC Boyd prior to joining the Civil Nuclear Police had been an officer in Fife Constabulary. In 2008 he wrote a Standard Operating Policy on the Use of Force which included a particular section that referred to Mental Health Disorder and Syndromes and Medical Conditions and Implications, as per the entry at 28/09/2017, a statement was noted from him ( which the Inquiry has), whereby he confirmed that he had compiled the two sections identified which had later been included in the Police Scotland Use of Force SOP SOP V1.03.

**329. What was your involvement in the digital presentation? What did this digital presentation relate to?**

**Response:** This presentation was requested by COPFS, I was involved in engaging the Digital Media Unit at SPA Gartcosh and supplying the material to this unit on the instruction of COPFS.

**330. On 11 December 2017 Alasdair MacLeod emailed you requesting further statements be taken from a number of the senior police officers on duty on 3 May 2015. Questions were listed that they wished to be put to officers. (PIRC-01949) Was this a standard level of input for COPFS in an investigation? Do you consider that these questions should have been asked by PIRC within the initial investigation, prior to being directed to do so by COPFS?**

**Response:** As per my earlier response additional requests from COPFS are not uncommon and I do not consider such a request a failing of the original investigation.

**331. On 19 December 2017 there appears to have been a meeting that “did not go as well expected”. (PIRC04525 p.110) Who was this meeting between and what did it concern?**

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Signature of Witness  .....

**Response:** This appears to be a note to myself in preparation for the general morning update on all ongoing matters. It also relates to a meeting with a technical person who had not supplied the material that we were pursuing. I believe it may be linked to the note in my daybook from 19 December 2017 re Enquires in Fife ST/AL. That will have been Stuart Taylor and Ashley Leitch and will be linked to the additional Airwave data we were asked to obtain. The result of this enquiry is detailed within PIRC 02076A

**332. Is it accurate that a meeting took place on 27 December between COPFS and PIRC staff (including you, Kevin Rooney, Stuart Taylor and Maurice Rhodes) (PIRC04525 p.114) If this meeting occurred on another day, please provide full details. What was discussed at this meeting?**

**Response:** A meeting did take place and the attendees are as listed in my book and this include Ms Ashley Edwards Senior Counsel who was working on this investigation on behalf of COPFS. My recollection of this meeting is that it was to show Ms Edwards all the CCTV evidence that had been ingathered. This was held at PIRC offices as it was felt that the equipment used by PIRC was better for such viewing than that which COPFS had.

**333. PIRC drafted an application to the Procurator Fiscal for Sheriff Search Warrant for all premises occupied or used by Police Scotland and those occupied by Scottish Police Authority seeking all personal data held concerning Aamer Anwar where there was reasonable cause to believe that personal data may be required as evidence for the purposes of proceedings in respect of contraventions of the Data Protection Act 1998. John McSporran is identified on the document as the applicant. (Pirc-04535) Who drafted this document? Did you input into this draft? When was this document drafted? Why were the Scottish Police Authority included? Why was the request for a search warrant being considered at this stage?**

**Response:** I did not draft this document and I cannot say when it was drafted. The matter regarding the SPA should be directed to the drafter/applicant.

Signature of Witness

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**334. It appears that this application was drafted, but not proceeded with. Why was it not proceeded with?**

**Response:** My recollection is that this is linked to an instruction received from COPFS to instigate an investigation under Section 33A (b) (i) of the Police, Public Order and Criminal Justice Scotland Act 2006 into the actions of Police Scotland in holding intelligence on Mr Anwar. This instruction was cancelled by COPFS before any PIRC investigation was undertaken.

**335. As it was not proceeded with, how were the issues identified in the draft application resolved and investigated?**

**Response.** I cannot answer that. The circumstances were forwarded by COPFS Crown Agent to the Information Commissioners Office to investigate.

**336. The draft application states that information in statements from Police Scotland indicated there was more personal data held which had not been disclosed to PIRC. What information was this?**

**Response:** I am unaware of what this is.

**337. The draft application states that the statement from Superintendent Audrey McLeod of PSD contradicted Police Scotland guidance to officers and police staff, as staff should record reasons for checks undertaken on police intelligence systems. Was this point ever separately addressed by PIRC in their investigation? Was Superintendent McLeod asked about the contradiction in her statement?**

**Response:** I did not address this and I was unaware of this matter.

**2018**

Signature of Witness



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**338. On 25 January 2018 you wrote to COPFS with an update on the PIRC investigation which covered various matters, including your meeting with senior representatives from the ICO on 17 May 2017. As at 25 January 2018, the matter was still under consideration by the ICO (PIRC-02076(a)). Was the ICO yet to determine if the data protection points raised in your investigation merited investigation by the ICO?**

**Response:** That is a matter for the ICO to answer but has detailed within my letter that I had not received any response from them on this matter.

**339. You stated you had been in contact with the ICO on several occasions and to date each request remained unanswered. When did the ICO revert to you? What comments, if any, would you like to make about the involvement of the ICO in the investigation?**

**Response:** The ICO did not revert to PIRC. On 13 September 2018 communication on the closure on this matter was received from Deputy Crown Agent COPFS. I have no comment to make other than COPFS considered that they were the appropriate organisation to look at this aspect.

**340. On 21 February 2018, Stuart Taylor sought guidance from COPFS as to PIRC's examination of the download of Ashley Wyse's phone. PIRC sought guidance as to whether COPFS was content for PIRC to only examine the files from the download that related to the incident on 3 May 2015 (as opposed to all files from that date). On 27 February Les Brown replied and stated:**

***PIRC should pursue all legitimate investigative avenues in order to legally obtain and evaluate evidential material that assists in the inquiry instructed by the Crown.***

**This email was forwarded to you. (PIRC-02587)**

Signature of Witness  .....

**What were your thoughts on receipt of this email? Were you satisfied with this response?**

**Response:** I was concerned regarding what I believed was an instruction to examine the full download from Ms Wyse's phone rather than just the material from 3 May 2015 which was the period of Ms Wyse's involvement in this investigation and which as a witness she had given permission for PIRC to examine. I did not believe that we had sufficient authority or power to conduct this examination.

**341. Was this level of guidance characteristic of COPFS across PIRC's investigation?**

**Response:** This was unusual and I was concerned that COPFS could not provide a straightforward response to what I believe had been a straight forward question which Stuart Taylor had asked of them.

**342. Why had the download of Ashley Wyse's phone not been examined prior to this point?**

**Response:** The information relating to the video footage taken by Ms Wyse as she had referred to in her statement had been examined. I had no investigatory reason to carry out a full examination of all the material held on her phone. Her only involvement in this incident had been that which had been identified in her statements.

**343. On 27 February you then forwarded this exchange to John McSporrان and sought advice on this point. You were of the view that it would be appropriate to have PIRC only examine the Snapchat files and images related to the incident, based on the consent provided by Ashley Wyse. John McSporrان's advice was that PIRC had the legal authority to examine the entire download, regardless of the extent of Ashley Wyse's consent. (PIRC-02587) Did you understand his reasoning? Did you agree with John McSporrان? If not, why not?**

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Signature of Witness  .....

**Response:** The interrogation of a telecommunication devices is not an area that I have any great familiarity with. I was aware that John had more experience in this regard and so I sought his advice.

**344. If you had not agreed with him or understood his reasoning, what, if anything, would you have done?**

**Response:** John was the Senior Investigating Officer for this investigation and had better knowledge regarding this area of business. So he made the final decision on this matter.

**345. This approach contrasted with assurances given to PC Short's legal representative concerning evidence relevant to PC Short's account of 3 May. On 16 June 2015 Professor Watson was assured by John Mitchell that inspection of PC Short's phone would be limited strictly to recovery of the photographs of her injuries. (PIRC-02356(a)) Why were different approaches taken to Ashley Wyse and to PC Short?**

**Response:** This is a matter for John McSporran and COPFS who instructed this full examination to explain.

**346. On 22 February you emailed Audrey McLeod seeking further information from Police Scotland including again requesting statements from [REDACTED], [REDACTED], [REDACTED] and [REDACTED] or to interview them for further statements. (PIRC-02187) Why did PIRC ultimately not take clarification statements from [REDACTED], [REDACTED] and [REDACTED] in this regard? Do you consider that PIRC were obstructed by Police Scotland in their investigation of this matter?**

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Signature of Witness [REDACTED] .....



**Response:** My recollection is that following receipt of the letter from Supt Macleod dated 1 March 2016, it was clear that Police Scotland believed that no member of their staff had acted illegally and that they felt our requests to be unreasonable for all the queries surrounding the staff who had been identified through this audit and that if we wished to speak to any of them further then instruction should be sought from COPFS,

My understanding given the passage of time was to pursue the overarching statement from a Senior officer re the raising and retaining of intelligence on Mr Anwar and report the circumstances as they stood and await further instruction from COPFS.

In addition the information contained within the statements provided by the three officers was now subject to the investigation by the ICO which had been instructed by COPFS.

**347. On 23 February your notes appear to read “Op Quoich – Daily Record sniffing about”. (PIRC04525 p.180) Do you recall what this was in relation to? Did they make contact with PIRC? What resulted from this press interest in the investigation?**

**Response:** I do not recall why I have written this note which appears to be part of a general update for a morning briefing.

**348. On 15 March your notes state “1500 Attend @ CAAP-d re phone analysis for A. Wyse phone” (PIRC-04526 p.12) Can you recall what this note related to – was it a phone call or a meeting? Who at COPFS did you speak to? Did you, on this day or at any point later, receive any further instruction from COPFS as to the examination of the download of Ashley Wyse’s phone? If so, what instruction did PIRC receive from COPFS in this regard?**

**Response:** I cannot recall this meeting from the reading of my note this would have been in person at the offices of CAPPd.

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Signature of Witness  .....

**349. On 1 June, Alasdair MacLeod emailed you asking for information in relation to house-to-house enquiries. (PIRC-01941) To what extent did PIRC rely on Police Scotland when completing house-to-house enquiries and generally progressing investigation? Were there any disadvantages to Police Scotland have been so involved, and visibly involved, in the investigation at Hayfield Road? Is it standard practice for PIRC's investigative strategies to be based on those created by Police Scotland? If so, what are the benefits of this approach?**

**Response:** On 3 May 2015 Police Scotland had instigated a House to House scoping exercise under direction of a House to House Coordinator, this had continued on 4 May 2015 with the coordinates being advised by his line management to to focus in the Loci of **Collette Bell's home** and also the locus of the incident at Hayfield Road/Hendry Road Kirkcaldy as detailed with PC Richard McLeods statement.

On 4 May 2013 upon being appointed as lead investigator I had appointed DSI Brian Dodd to oversee the PIRC House to House response and tasked that he met and linked in with Police Scotland on this matter. This he did. At that time PIRC were instructed to undertake investigation into the incident at Hayfield Road and events thereafter and Police Scotland were to investigate circumstances leading to Police interaction with the deceased. So you had two parallel investigations ongoing both undertaking House to House enquiries amongst a number of other enquiries. DSI Dodd agreed with Police Scotland an action plan in respect of the COPFS instruction based on the scoping exercise that Police Scotland had undertaken.

There was no other alternative at that point given the COPFS instructions. The advantage from a PIRC point of view was that Police Scotland during 3 and 4 May 2015 prior to DSI Dodd arriving at Kirkcaldy had instigated House to House, so enquiries were progressing timeously. I agree that the disadvantage was that from a family and the general public perception was that Police Scotland officers were visible conducting enquiries.

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Signature of Witness  .....



I refer you back to the conversation I had, had with ACC Nicolson on 4 May 2015 and this was an area that concerned him. But this course of action was in line with COPFS instruction.

It was only on 6 May 2015 after further instruction from COPFS on 5 May 2015 did PIRC instruct Police Scotland to stop House to House investigations.

With regard to adopting Police Scotland strategy in this manner, they had been able to instigate enquiries in this area (House to House) almost immediately and had drafted a strategy. I asked DSI Dodd to adapt this as each instruction came from COPFS.

**350. In June 2018 there are various references in your notes to “H2H” in relation to this investigation, and sometimes appear as “H2H enquiries re newspaper articles” PIRC-04526 p.107) Did these relate to the above question?**

**Response:** Yes they refer to the additional work instructed by Mr Macleod in his email of 1 June 2018, which makes reference to press articles.

**351. On 14 September you noted that the ICO had replied directly to COPFS “No Action. Action to be closed”. (PIRC-04526 p.165) How did you become aware that the ICO had replied directly to COPFS? Was it by telephone, or in writing? If it was in writing, were you provided with sight of this correspondence? What reasons did the ICO give for not taking any action? Did you agree with their decision? If not, why not?**

**Response:** I cannot recall how I was advised of this decision or if I had sight of the correspondence at that time of the correspondence. The decision was a matter for them.

Signature of Witness

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**352. On 23 September a report appeared in the media indicating that there would be no criminal proceedings brought against the principal officers who had attended Hayfield Road on 3 May 2015. This was in advance of the family being informed of any decision, and before any public announcement. When did you learn of the decision not to bring criminal proceedings? How did PIRC respond to this newspaper article? What contact, if any, did you have with Sheku Bayoh’s family or their solicitor in response to the publication of this story?**

**Response:** I have no recollection of when and how I was advised of this decision or what if any response PIRC provided. I had no contact with them.

**353. What steps, if any, did you and your colleagues at PIRC take to investigate the source of the leak of this information to the media? Did PIRC have any knowledge concerning this apparent leak of information? Do you have any views as to the source of this information to the media?**

**Response:** I do not recall that we took any action to investigate the source of the leak of this information to the media and we were never instructed to undertake such enquiries. . I had no knowledge of the apparent leak.

I have no views on this matter other than it was, in conjunction with all the previous press speculations and media programs, unhelpful to the investigation and I am sure caused undue distress to the family and their understanding of exactly what had occurred that day.

**2019**

**354. On 10 January 2019 you spoke with the Head of Investigations concerning this investigation. (PIRC-04527 p.56) Please can you examine your notes for this entry and provide a transcript and any context that you can recall. What was against COPFS wishes?**

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Signature of Witness  .....

**Response:** I have no recollection on this matter.

My note reads.

Spoke with HOI re Op Quoich prods agrees that the lodging of CCTV Hard drives with COPFS against their wishes would be counter productive and cause conflict. He would speak with KF

**355. On 16 January you emailed [REDACTED] at the ICO referencing her email of 11 January to John McSporran. You offer to provide any further required information. (PIRC-02116) What was the status of the referral to the ICO at this time?**

**Response:** Whilst I do not recall sending this email I do recall that sometime after being advised that the ICO had closed their investigation PIRC were then advised that they had now reopened it. I do not know what status this referral was at, as this was a matter between COPFS and the ICO. I was merely a conduit for passing information.

**356. On 8 February 2019, you enter a note under the heading "Spec of Docs" (PIRC-04527 p.78). Please can you examine your notes for this entry and provide a transcript and any context that you can recall.**

**Response:** This note reads

Spec of Docs paperwork for all sections bar No 11 taken to Bonner Law & lodged at Court of Session.

This is just a note to say that material as requested within the Specification of Documents Civil order had been taken to the requesting lawyers and other material lodged with Court of Session. With the exception of that requested at No 11, which I presume to have been point 11 on the order.

DocuSigned by:  
Signature of Witness [REDACTED] .....

On 18 February, you enter a note at 10.38. (PIRC-04527 p.90-91) Please can you examine your notes for this entry and provide a transcript and any context that you can recall.

**Response:** This note reads

[REDACTED] - [REDACTED]

Spec of Docs principal depute

Pursuers lodge motion to have it open

Took advice any public interest would be

Take any legal advice

Opposed

PIRC claiming confidentiality are they only party to oppose

Redacted copy

All considered by the LA but legal advice was the court would agree and find in favour of the Bayoh family.

[REDACTED]

[REDACTED]

Read and receive receipts attached.

This note refers to a telephone conversation I had with [REDACTED] who worked within the Crown Agents Office COPFS and who I had been directed to regarding the matter of dealing with Specification of Documents civil orders. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Signature of Witness

DocuSigned by:  
[REDACTED]

.....



**357. In August and September 2019 there was reporting that purported to reveal aspects of the PIRC’s investigation and content of the Report, specifically in relation to PIRC’s investigation of intelligence held by Police Scotland in relation to the Bayoh family’s solicitor, Aamer Anwar. Were you aware of this at the time? Did you have any understanding of how journalists claimed to have obtained information?**

**Response:** I have no idea how this matter was obtained by the media.


**358. What steps, if any, did you and your colleagues at PIRC take to investigate the source of the leak of this information to the media?**

**Response:** I did not take any steps to investigate the source of the leaks of information to the media, other than remind my staff of the need to maintain confidentiality.

**2020**

**359. On 22 December 2020, the ICO wrote to John McSporrان at PIRC informing him that the ICO had concluded their investigation. The ICO had contacted Police Scotland “in relation to their collection, retention and fair processing of data collected in relation to a specific individual as well as legal representatives in general”. The ICO had decided that formal regulatory action was not required in this case. However, “the Commissioner considers that the PSoS needs to take certain steps to improve compliance with the DPA 2018 and several recommendations in this regard were made.” (PIRC-02127(a)) Were you made aware of this correspondence? Were you, or any person at PIRC, informed of what the “steps” were that Police Scotland needed to take? If so, what were these steps?**

**Response:** I have no recollection of this letter. I was not advised of what steps PSOS had been asked to take.

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Signature of Witness  .....

**Police misconduct**

**360. Regulation 9 of the Police Service of Scotland (Conduct) Regulations 2014 provides that Police Scotland may continue with misconduct proceedings while PIRC or COPFS investigate a matter. Are you aware of any situation in which Police Scotland has continued with misconduct proceedings during a PIRC or COPFS investigation? Do you know if there was consideration within Police Scotland as to that being done in this instance?**

**Response:** I am not aware of any situation and I have no knowledge whether this was considered by Police Scotland or not.

**Record keeping**

**361. What were PIRC's requirements for you to take contemporaneous notes of your actions and decision making during an investigation? How did you meet these requirements?**

**Response:** I am not aware of any guidance at that time on this matter.

**362. Did you routinely password protect documents? What was your criteria for deciding if a document should have a password applied or not? Did you have any safeguards for ensuring passwords for documents were not lost?**

**Response:** This is something that did not happen routinely, the only occasion that I had this done was when I had the documents I sent electronically to the ICO on 24 May 2017 password protected. I do not know how to do this and I had it done by our technical staff.

To ensure integrity of the document and safeguarding of the password. I had the password sent later that date on a separate email after confirmation that the original documents had been received. This email was saved into the operational records.

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**Race**

**363. Was anything you have stated above done or not done because of Sheku Bayoh's race?**

**Response:** No

**364. Prior to 3 May 2015, what experience, if any, did you have of investigations of deaths in custody or deaths following police contact in which the deceased was someone from an ethnic minority? Since 3 May 2015, with the exception of the investigation following the death of Sheku Bayoh, what experience do you have such investigations?**

**Response:** My recollection is that prior to this incident I had no experience of dealing with such a matter in which the deceased was from an ethnic minority or have done since 3 May 2015.

**365. Prior to 3 May 2015, had PIRC ever considered the issue of race within an investigation? If so, in what way was race a consideration? With the exception of the investigation following the death of Sheku Bayoh, has PIRC considered the issue of race within an investigation since 3 May 2015? If so, in what way?**

**Response:** I have no recollection or awareness of PIRC ever having considered race during the course of any investigation with the exception of this investigation.

**366. Do you have any experiences of racism (or the race of the victim) being a factor, in any way, in a death in custody or death during or following police contact? If so, please provide details of how racism was a factor, your involvement in dealing with it and the outcome.**

**Response:** I have no experiences in this regard.

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**367. On and before 3 May 2015, had PIRC ever considered the issue of race when dealing with a death in custody or death during or following police contact? Has that changed between then and now?**

**Response:** This is the only investigation that I am aware of that PIRC has had to consider the issue of race as directed by COPFs. However as highlighted at my response to Q204 it was recorded within the PIRC Management Policy book that we would take cognisance of any issue of race if they emerge and that is the same for all our investigations.

**368. Is the race or ethnicity of a deceased person automatically considered by PIRC as part of an investigation following a death in custody or a death following police contact? If so, in what way? If not, is the deceased's race or ethnicity only considered when directed by COPFS?**

**Response:** The race or ethnicity will always be considered to ensure that an open mind is maintained as to what may or has occurred. In addition Race or ethnicity in particular can have a direct bearing in dealing with families of the deceased especially in respect of cultural issues

**369. As at May 2015, did you have any awareness of investigations by bodies in England and Wales that were investigating the impact of race in a death in police custody investigation? If so, please provide details.**

**Response:** I had a general awareness of the work of the charity organisation Inquest, but other than that no.

**370. If so, what learning did PIRC derive from those investigations and what, if any, changes resulted in how PIRC would carry out that aspect of their investigation?**

**Response:** I only had a general awareness of this organisation.

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**371. With particular reference to the issue of race, is there anything you have stated above that, knowing what you know now, you would have done differently?**

**Response:** I think it is fair to say that PIRC’s engagement with the deceased family was not what it ideally should or could have been. This was, in my opinion, for matters that took place out with my control and before I became involved.

In this regard they had to deal with a lot of anxiety and frustration that led to a lack of confidence from the family in PIRCs ability to conduct a thorough and transparent investigation. In this regard I would now ensure that help/advice is sought to assist PIRC and I to manage the engagement with the family.

**Reform**


**372. Are you aware of the Police (Ethics, Conduct and Scrutiny) (Scotland) Bill and its content? If so, do you have any views you would wish to share on its proposed impact on PIRC?**

**Response:** I only have a very general awareness of this matter it is being dealt with by others within PIRC and I am not party to any discussions on this matter.

**373. In your opinion, are there any issues that PIRC encounters that the Bill would not resolve?**

**Response:** I do not have enough knowledge to make comment on this.

**374. You explained in your Inquiry statement that you lecture in Police Scotland training about the role of PIRC. As at the time of your Inquiry statement, you explained that even now Police Scotland officers do not know who PIRC are. (SBPI-00255) How does this lack of knowledge on the part of the police affect PIRC’s investigations?**

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**Response:** This lack of knowledge causes some difficulty in that Police Officers have a reservation even a fear in dealing with PIRC. In the majority of investigations other than that as instructed under section 33 A (b) (i) of the Act, then I will be investigating a set of circumstances and it is important to get that across and that PIRC does not investigate misconduct matters other than that for Senior Officers. The Commissioner is here to help improve policing in Scotland which is something majority of officers have no understanding of.

**Miscellaneous**

**375. Is there anything about your role that, knowing what you know now, you would have done differently?**

**Response:** Please see my response at Q372, my role at PIRC is to act under COPFS instruction on a matter like this. Ingather evidence and present this to COPFS for consideration. I was not aware of any criticisms being directed at PIRC or I in particular from COPFS in this regard.

**376. The Inquiry’s Terms of Reference are contained within Annex B. If there is anything further that is relevant to the Terms of Reference which you are aware of, but you have not included in your answers to the above questions, please provide detail as to this.**

**Response:** I have no other details to include in this statement.

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 

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