

**The Sheku Bayoh Public Inquiry**

**Witness Statement**

**Maurice Rhodes**

**Taken by [REDACTED] on 28 November 2023**

**Witness details**

1. My full name is Maurice Rhodes. My date of birth is in 1965. My contact details are known to the Inquiry.

**Professional background and experience**

2. I have been asked what my professional background was prior to working at the Police Investigation & Review Commissioner (PIRC). Prior to PIRC, I worked in the police. I was a police officer for 31½ years. A year and a half of that was as a cadet and 30 years as a police officer. I finished in 2013 when I retired, having worked with the newly formed Police Scotland for approximately three months.

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**My Role at PIRC**

- 3. I joined PIRC on 1 October 2013 and my official end date was the end of January 2022.
- 4. I have been asked what my role at PIRC was. I was an Investigator. My role did not change at any point.
- 5. I have been shown my application form for joining PIRC as a directly employed member of staff. (PIRC-04218) I have been asked how I came to work at PIRC. I joined on 1 October 2013 as a temporary member of staff and I became permanent at the turn of 2014, perhaps January. I believe at that time PIRC were increasing their numbers.
- 6. I have been asked who I reported to. At the time, DSI Ian MacIntyre. Billy Little was the second and [REDACTED] was the third.
- 7. I have been asked if any staff reported to me. At that time there were trainees within the organisation, one of whom - Stuart Taylor - was in our group.

**The Police Investigations and Review Commissioner**

- 8. I have been asked how being a police officer is different to being an investigator. Quite a bit. In the police, you go through your career, you potentially can be promoted through the ranks. You can go into specialist roles in those ranks. Whereas, with PIRC, you're a sort of catch-all as an investigator. I was taken on by PIRC due to my previous skills within road policing. In my opinion, PIRC employed ex-police officers with certain skills bases.
- 9. I have been asked if staff having a background as a police officer had any particular advantage or disadvantage for PIRC. I think when the organisation was

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set up, it would not have been able to do the task it was created for without there being ex-police officers within the organisation, and I think that's probably the same today, albeit the organisation has moved on somewhat to be more inclusive of non-police officers as well. Bear in mind I wasn't at PIRC at its inception, which I believe was March 2013. Prior to that, I think there would have been a month or two where the initial investigators, DSIs and SIs, were preparing for the day of the change. I think the organisation had to hit the ground running, and I believe that the only way it sort of could do that would be to employ ex-police officers within the organisation for their skill set.

10. I was an inspector at the point that I left the police (PIRC-04218). I have been asked if there was any impact on my work as an investigator at PIRC, being required to examine and liaise with quite senior police officers. Within the police I liaised with many senior officers, including the chief constable on a regular basis, because of my role. So no, I didn't find anything unusual in that. Some may have, but I certainly didn't.
  
11. I have been asked if between May 2015 - August 2016, I feel that there was adequate resourcing for PIRC to comply with its statutory obligations in terms of funding, staffing and capacity. I think that's a bit above what my pay grade was. I believe when PIRC started, there was in the region of 18 investigators. I could be wrong. I think at the time of the incident, I believe there was in the region of 22. I think Police Scotland at that time was resourced with 20-odd thousand people. That doesn't seem a great ratio, does it? If you looked at England and what their oversight body had at the time, it was considerably more than 22. I think it was in the region of 300 and odds with maybe 120,000 police officers in England and Wales. So, if you look at those sorts of percentages then, yes, I would say it was well under-resourced.
  
12. I have been asked, prior to 3 May 2015, what involvement I had in any PIRC investigations that featured a death in custody or a death following police contact.

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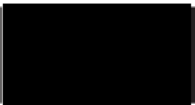


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I don't recall. I've been involved in a few deaths in custody with PIRC. I don't recall if they were pre or post this incident. There were certainly some post. I don't recall if there was any pre.

**Training**

- 13. I have been shown a record of the training PIRC record me as having undertaken when employed by PIRC. (PIRC-04577) I have been asked when I joined PIRC if reliance was placed on the training I had previously received as a police officer. To be honest, I mean, I don't recall a lot of what I've been shown there. I know that I went on training with PIRC. I know I had previous training before PIRC. Those lists would certainly be available to the Inquiry from the police as well. I don't recall, when I first went into PIRC, whether there was any immediate training. There may have been, but there would have been a certain amount of reliance on the experience I brought with me to PIRC. I think it would be fair to say that I was approached by PIRC because of my skill set previously to leaving the police.
  
- 14. One of my previous police colleagues started with PIRC. He was a road policing officer as well, and I think when PIRC started they realised that a large proportion of what they were being asked to oversee, inquire into, investigate, involved road policing matters, and I think very quickly John Mitchell realised that one investigator with previous road policing experience was insufficient, and I believe that's exactly why I was approached.
  
- 15. I have been asked if I can recall anything about the iHasco online training in May 2014 which featured unconscious bias modules or the Equalities training in October 2014. The actual phrase "Unconscious bias for employees" is a thing that vaguely recalls me of the training, what was in the training I do not remember.

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- 16. I have been asked how it was identified that staff required, or would benefit from, training. I think it was, at that time, all organisational driven and led.
- 17. I have been asked if I felt adequately trained and experienced to carry out my role at PIRC. Yes.
- 18. I have been asked if as at 2015/2016 there was any process within PIRC to assess "lessons learned" from investigations. Not that I know of.
- 19. I have been asked if any "lessons learned" process took place following the Sheku Bayoh investigation. It may have taken place. Certainly not with me, that I recall. I could stand to be corrected on that, but I don't recall any of them.

**Conflicts**

- 20. I have been asked if, prior to 3 May 2015, I had any contact with or knowledge of the Police Scotland officers who attended Hayfield Road initially. None.
- 21. I have been asked if, prior to 3 May 2015, I had any contact with or knowledge of the Police Scotland officers I encountered in the course of this PIRC investigation. Not that I recall of, no.
- 22. I have been asked if there was any policy or guidance at PIRC for a person who encountered a police officer that they'd had a professional relationship with before. Not that I know of.
- 23. I have been asked if, at any time at PIRC, I came across someone in the police who I had worked with when I was in the police. Yes.
- 24. I have been asked if there was anything that I did when I encountered an officer that I had worked with previously. Be professional. I came across many officers that I'd worked with before, some who were senior in rank to me, some who were

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junior in rank to me in my time in the police, but at that point I was an investigator for PIRC, and I conducted myself as such.

**My involvement with the PIRC investigation**

**Sunday 3 May 2015**

*Call from DSI Harrower and initial instruction*

- 25. I have been shown my PIRC self-statements (PIRC-00324, PIRC-00325). My first self-statement notes that on 3 May 2015 I was off duty and at my home address. Yes, I was, yes. I was on call.
  
- 26. I was contacted by DSI Keith Harrower at 10.30. I was asked if this the first I learned of the incident. That was the first I'd heard of it.
  
- 27. I have been asked what I discussed with DSI Harrower on this call. I don't recall the specifics. As far as I recall, he informed me there had been a death in custody in Fife. Whether he actually phrased it that way or not, I don't recall, but basically, he was recalling me to duty officially, and asking me to attend the PIRC office in Hamilton to become part of an investigation team.
  
- 28. I have been asked if, during this call, DSI Harrower mentioned Mr Bayoh's race. No. Not that I recall.
  
- 29. I was asked to attend PIRC office in Hamilton and told I would be given more detailed briefing and that I would perform the role of "scene manager". (PIRC-00324) I have been asked to explain the role of a scene manager. I wasn't the only one recalled to duty, obviously. Stuart Taylor, Garry Sinclair, who is a crime scene manager, was called as well. There were specific tasks given out to those that were recalled to duty. I wasn't the only scene manager. Garry Sinclair and I were both tasked to be scene managers. I believe John Ferguson and Stuart

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Taylor were both recalled to duty. I believe they were to be the scene managers at the hospital if I recall rightly. Alex McGuire was working with DSI Harrower; Stuart Taylor worked with John Ferguson, and Garry Sinclair and myself worked together, so we were put into teams. To let you understand, it was a live situation, it was very fluid, so these tasks became more accurate as time went on throughout the morning and into the afternoon. It wasn't, "From the word go you will do X, Y and Z." That developed as the day went on.

- 30. I have been asked if I know why different roles were assigned to people – if it was the case that I and Garry Sinclair had relevant experience. Yes, potentially, that was Keith's thinking. Garry was an ex-detective inspector and John Ferguson was an ex-detective sergeant. I'm sure that Keith, who was himself an ex-detective chief inspector, would've taken that into account.
- 31. I have been asked if the role of scene manager was something that I was quite used to doing by that point. Yes, specifically from a road policing point of view.
- 32. I have been asked if I had performed the role of scene manager following a death in custody or following police contact PIRC investigation before. I wouldn't be able to recall. I have been a scene manager for deaths in custody while at PIRC in a police cell. I think that was post this incident. Prior to the incident, there was other deaths but I can't recall whether I was specifically a scene manager for any of them and I don't recall whether they were actually in custody. I don't believe so.
- 33. I have been asked if on 3 May I had an understanding of the basis upon which PIRC were instructed to investigate the incident by the Crown Office and Procurator Fiscal Service (COPFS). There would be instruction from Crown. I don't know if that was officially received prior to our dispatch to Kirkcaldy or whether it came after. To be honest with you, that's not something I would be included in. That would've been between Keith and COPFS. Whether he actually told us, I'm sorry, I don't recall.

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34. I have been asked if the legislative basis on which PIRC are instructed to investigate by COPFS makes a difference to a PIRC investigation. There's several ways that a referral can be made and, yes, to a degree, it can affect how an inquiry would be taken on. I can't recall all of them at the present but, there are different ways that it can be referred to at PIRC and, to a degree, that may influence how it's initially dealt with but, again, I'd stress that would be above my grade, how that all came about.

*On call system*

35. I have been asked what being "on call" as a PIRC investigator involved. It was seven days of basically being available 24/7 at the end of a telephone. You would carry out your normal daily duties between eight and four or whatever times you were actually working and thereafter you would be available with a PIRC phone to be contacted, and you would be expected to turn out, as it were, to put yourself back on duty.

36. I have been asked if it was fairly regular that I would be contacted when on call, or if it would be rare to be contacted. It depends how lucky or unlucky you were. I tended to be called to a lot of the serious incidents with PIRC. In fact, in the first five years I think I was at them all. Now, that could have been just down to the numbers involved of investigators but, because of my skill set, I was at all of the major incidents.

37. I have been asked if I was ever contacted when I was not on call, and asked to report for work. Absolutely. I've attended deaths following police contact while not on call and, specifically, a fatal road collision involving a police vehicle, which obviously would make sense. I have been asked if it was common for staff to be contacted when not on call. I wouldn't say it was common. I would just say it would be dependent on the circumstances. There only being 22, and I think I'm

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right in that figure, any serious incident that came in would involve, you know, a contingent from PIRC that could run from 2 to 22, basically. They used their resources at their disposal.

38. I have been asked if I know how many investigators PIRC had on call on 3 May 2015. This changed throughout the time that I was at PIRC. At that point, there was always a DSI, who would be able to be contacted by Crown Office and Procurator Fiscal Service. Beyond that, I think there would be a minimum of two investigators at that time. That increased and then decreased depending on the circumstances.

39. I have been asked what PIRC's system was for allocating people to the on-call rota - if consideration was given to the investigators' skills, expertise and experience when setting the on-call rota. Throughout my time in PIRC, there would be questionnaires - like an express sheet for you to quote your skills base. I believe those skills bases were set across the teams or spread across the teams, but in terms of the actual on-call rota, that just worked on a rotational basis. I believe at that point - I could be corrected - there was either five or six teams for each of the DSIs. I believe there were six DSIs at the time, so that was rotational. But it was always the case that an on-call DSI could call out anybody that wasn't on-call. Now, obviously, not everybody would be available for various reasons.

*Resources*

40. I have been asked if I consider PIRC had sufficient resources to respond to the incident on 3 May. Well, if you argue that 22 wasn't sufficient for the amount of police officers in Scotland, as I've said earlier on, then you would argue the case

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is no, there wasn't sufficient. That's from terms of how many were in the organisation. Those that attended that day had the skill bases to do what they could with what was available to them. Could there have been more attended? Yes, if PIRC had 70 people at the time, I'm sure that more than the six that went would have went.

- 41. I have been asked if I recall any discussions with DSI Harrower - or anyone else at PIRC - in relation to PIRC's level of resources on 3 May 2015. When we attended that day - and I don't recall everything that happened that day clearly - but if I recall rightly, there was six loci. Two scene managers into six doesn't go, so myself and Garry in particular obviously went to the main location. That was different for the hospital, that would only require two investigators.
  
- 42. I have been shown evidence to the Inquiry provided by Detective Superintendent Patrick Campbell who stated (day 47, page 128, line 23):

*"A. ... I had slight concerns round about their awareness of capability and also the capacity round about the number of resources that turn up at that time to take on an investigation such as this, which was gathering pace, there was significant media attention around it. So it wasn't just investigative side, there were other areas that were playing out at that time.*

*Q. When you say you had concerns about their capacity, what do you mean by that?*

*A. Resources-wise. I think we had about – I recall at one time we had probably about 20, 22 resources on it at one time from Police Scotland, detective officers involved in the investigation. I think at that day, I think they turned up with four or five PIRC."*

I have also been shown DS Campbell's evidence (day 49, page 174, line 5):

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*“A. ... it’s clear it was insufficient for the job on 3 May, and that’s why from a Police Scotland perspective we’d significant resources pulled from all over the country, as well as from the Major Investigation Teams, to support the PIRC in respect of the investigation.”*

I have been asked what my views are in relation to DS Campbell’s comments regarding the level of resources available to PIRC on 3 May 2015. Pat’s opening comment as we walked into the office that day was, “Ah, it’s a Strathclyde Police Reunion,” and that was Pat’s opening comment that day. There was nothing that Pat said to us on the day, there was insufficient resources. That was never ever discussed. Resource-wise, there was, and I could stand corrected here, 22. There’s only so much you can do with 22, and so much with who is on-call. Bearing in mind it’s a Sunday morning after a Saturday night. There would only be so many resources that you could call upon to attend as well.

- 43. He’s correct in terms of numerical numbers but that’s what was available in 2015. To a degree that’s been, I’m not saying solved, but improved today because of an increase in numbers. I would still say that the skill set of the investigators that attended, with the exception of perhaps Stuart Taylor, I don’t know if he was still a trainee at the time, was still probably as good as any single police officer that Pat says. And obviously, there’s 22,000 in Police Scotland at that point. They can pull more resources, that’s common sense. So yes, there’s truth in what he says in terms of numerical numbers.

*Briefing at PIRC offices on 3 May*

- 44. I have been shown my PIRC statement in which I explain I received a briefing from Keith Harrower at about 11.00 with Investigators Taylor, Sinclair, McGuire, Ferguson. (PIRC-00324) I have been asked if I recall anything about this briefing.

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No. I remember there being a briefing, obviously I was there. Specifics and accuracy? No.

45. I have been asked if was PIRC's normal practice to convene investigators at PIRC's offices prior to deployment taking place out of hours. Yes, that was the normal - we would attend at Hamilton. Specifically, there may have been equipment that we were required to take as well. We used to have the facility to take a PIRC vehicle home and use that. I don't know if that was still the case in 2015, so any transportation needs would have been at Hamilton as well. Equipment, transportation needs, paperwork.

46. I have been asked if it was ever the case that PIRC investigators would be told to head immediately to the relevant location. Yes, absolutely. There would be occasions where we would go, probably post-this case, straight to an incident. That would just depend on the circumstances. I always preferred to go to Hamilton. Now that's easy for me to say, I lived very close to my work so it was always better for me to go in there, prepare myself, and then head to the location. There was other circumstances, in relation to incidents where it was close to my home address and I was able to attend straight to the incident, or be picked up with someone if I wasn't on-call, which happened quite a few times.

47. I have been shown my PIRC statement which contains a summary of the briefing provided by DSI Harrower at 1155 hours. Part of this summary states:

*"He informed us that around 0715hrs that morning (3 May 2015) officers from Police Scotland had attended Hayfield Road, Kirkcaldy after members of the public had reported seeing a black male armed with a knife in the street at this location. He stated that a female officer had been assaulted by the male and that whilst the other officers attempted to arrest him he became unconscious. The male had been removed by ambulance to Victoria Hospital Kirkcaldy where life was pronounced extinct at 0904 hours. He informed us that the now*

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*deceased had been identified as Sheku BAYOH born 30.9.83 and that he was currently within a side room within the Victoria Hospital, Kirkcaldy.” (PIRC-00324)*

That statement I gave in July 2015. So, it was a lot fresher in my mind. Yes, that would be absolutely correct. I have been asked if I had any idea of what had led up to that interaction between Mr Bayoh and the police officers. No.

48. My PIRC statement notes that I was tasked to deal with scene management duties at Hayfield Road, together with Investigator Garry Sinclair. (PIRC-00324) I have been asked what this role involved. We would oversee scene management ongoing with Police Scotland. [REDACTED] There was CS manager meetings between us about, agreement between us as, how to manage the scene. From a PIRC perspective, what you would need to understand is that we would oversee the scene management that was ongoing by Police Scotland. There would be, I think the term at that time was a “crime scene manager” (which later became scene manager) who would have been in Hayfield Road. There would have been briefings up to that, so while we were in Kirkcaldy Police Office, there would have been a scene managers briefing. My recollection is not accurate on everything that happened that day but there would have been meetings between us, senior officers, regarding the scene. There would have been an agreement between us as to how we were going to manage the management of the scene. And then Garry and I headed out to the scene.
49. I have been asked what the benefit was to there being two of us, Investigator Sinclair and myself. At that time as well in PIRC, there was always a case of having two investigators from a corroboration point of view. Garry would bring CID perspective to that scene, and I was able to bring a road policing aspect to that scene. You may find that a bit strange, but in terms of, for instance, laser mapping of the scene would be specifically something done in the police by a road policing unit resource.

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[REDACTED]

50. I have been asked, in the course of 3 May 2015, what involvement, if any, did DSI Harrower have in the management of the scene at Hayfield Road and the decisions made in that regard. Keith would maintain operational overview of everything that happened on that day, including the meetings, any decisions made by PIRC. Now, he would be in constant contact with the SI (Senior Investigator) and, perhaps, I would understand it, the Head of Investigations. He would task, but he would always have that overview of what was happening so if we did anything, we would report back to him. He would then take that further up the chain of command.

51. I have been asked if there was there any discussion while I was in Hamilton in relation to the risk of the officers involved in the incident conferring. That would be more prevalent to Keith to answer that question. We get an overview of what was happening and then basically asked to attend at Kirkcaldy Police Office. I'd probably say, and again it would be for Keith to answer, he would not only be in contact with senior personnel in PIRC, but with Crown Office and Procurator Fiscal Service, and senior officers in Police Scotland. That would be something that they would be discussing as to what should be and what should not be done.

*Arrival at Kirkcaldy Police Office*

52. My PIRC statement details that I met with police officers at 12.55 hours at Kirkcaldy Police Office. (PIRC-00324) I have been asked if would have been helpful for the PIRC investigators to be at Kirkcaldy police office any earlier that day. It would always be helpful to be there as quick as possible. But I think, bearing in mind the distance involved, the time involved, getting to Hamilton, getting ourselves ready, equipped. I don't know that we could have got there any quicker than that. Police Service of Scotland have a lot of resources that they can immediately call on to attend an incident, an emergency ongoing. PIRC, at that time, and I don't think any different now, doesn't have that capability. You

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get there as soon as you can reasonably get there. PIRC is not an emergency response organisation. For instance, they have no ability to use blue lights or respond to ongoing emergencies.

53. I have been asked if, before getting to Kirkcaldy Police Office, I had any communication with Police Scotland officers in relation to the management of the Hayfield Road scene. No. I wouldn't even know who they were until I got to Kirkcaldy Police Office, and they introduced themselves.

54. I have been shown my PIRC statement which refers to my meeting at Kirkcaldy Police Office with DCI Stuart Houston at 12.55 hours. At this meeting, DCI Houston identified that he was the "scene co-ordinator" for the incident and DC Brian O'Neill was the scene manager for Hayfield Road. (PIRC-00324) I have been asked how DCI Houston and DC O'Neill's involvement in the investigation related to my role as PIRC's scene manager for Hayfield Road. Again, this was early days in PIRC. I know it's a year and a bit in for myself. Ideally, if PIRC had full resources, you would be able to take on the role of a scene manager. However, I don't know that that would ever be achievable unless the numbers were sufficient to allow that to happen, and even in current numbers for PIRC, I don't think that would be achievable. So, in terms of scene management, you would be overseeing what was already in place and agreeing what was already being carried out. As a PIRC investigator, you would be able to directly ask for specific things to be done. For instance, at the time, due to the scene when we arrived, we could see that the drainage system was there, I believe we looked at the scene manager's log and that it hadn't been considered to check within that drainage system, so we asked for that to be done. I think there was a couple of things we asked for, I don't recall them fully, but the one that sticks in my mind was the drainage system to be checked for any items. So, we would be able to make a direction if required.

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55. I have been asked if Police Scotland were in charge of a scene, or if PIRC were in charge of the scene with Police Scotland are carrying out operational steps. PIRC has oversight of the scene, but are 'in charge' of the scene. Now, that developed as the years went on in PIRC and more numbers developed as well. For instance, a death in a cell. It would be a scene manager from Police Scotland, or from Gartcosh, potentially an expert scene manager, but they would work under the direction of PIRC. We would be able to say to them, "I want this done, I want that done," and they would policy that. Everything would be in a policy document as well. There would be a scene entry log to say who was within the scene, but there would also be a policy document to record policy decisions on scene management. Police Scotland would have scene management in place from the word go or as quick as possible thereafter. The police still did their job up until there was a point where it was decided that PIRC would engage in those tasks, and at some point there would be a formal handover to PIRC in terms of an instruction, for instance, from the Crown Office and Procurator Fiscal Service.
56. I have been asked if I think the continued involvement of Police Scotland in the management of scenes following a death in custody or death following police contact impact PIRC's actual or perceived independence. I don't think that that's for me to answer. That would be for the people who were doing the perception of that to say. All I would say in terms of that, when you have finite resources, or very limited resources, there is only so much that you can actually take on. If you looked at the amount of scene managers there are in Police Scotland, it will literally be hundreds. That obviously doesn't exist in PIRC.
57. I have been shown my PIRC statement which notes that DCI Houston informed me that a number of items had been removed from the locus at Hayfield Road due to heavy rainfall prior to being photographed by staff from the Scottish Police Authority, including batons, a mobile phone and the knife found close to the locus. I was also informed that DC Derek Connell had photographed the knife on his mobile phone prior to its removal. (PIRC-00324) I have been asked if I was

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content with those decisions and what I was told happened so far. I think most of that had already been done prior to our arrival. So that decision had already been taken and those actions had already been done. From that perspective, when you arrive at any scene, whether you're taking over, or taking overall oversight of that scene, what has already been decided has already been decided, unless there has been prior instruction from PIRC or Crown Office and Procurator Fiscal Service. Potentially there could have been instruction prior to us arriving, but on this occasion, I don't think that that was the case.

58. There was a death in custody in a police office down in Dumfries. I now recall that this was before the incident that we are discussing. There was a death at the charge bar, in a police office in Dumfries, and the Procurator Fiscal had decided that the office would be closed, the scene would be left *in situ* for PIRC to deal with, and I also attended that incident, as did DCI Billy Little. That's a circumstance where, for instance, the Procurator Fiscal stepped in and made a decision. Again, that would have been in consultation with, I believe, Irene Scullion, Head of Investigations, and John McSparran. There's an example of a decision where the scene was locked down, the body was *in situ*, not moved, and we actually attended and carried out the full scene management. The difference there is that it's a closed scene, within a Police Office. It can easily be secured, whereas the circumstances in this incident is a main road on a busy street with people going about their business, attending work, so clearly that would not be able to be achieved.

59. I have been asked what impact, if any, did the removal of items from the locus at Hayfield Road have on PIRC's investigation. Everything has an impact, I would say. For instance, the knife was removed, so although it had been photographed on the officer's own mobile phone, the absolute location of that knife, for instance, just an example here, could never accurately be determined. If you were asking me, "Did that have an influence on the investigation?" well you could argue from that standpoint that the location of that knife, in terms of the location of the initial

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incident involving the officers, distance-wise, other-wise, could have been more accurate. But again, the knife had been removed prior to our arrival. But that is just one example and whether, ultimately, it affected the full Inquiry would be, again, not for me to decide. It would be for others more learned. Ideally, as a scene manager attending an incident, nothing should be removed until it's logged, photographed, I would suggest not by a personal mobile phone, and in terms of what we were able to do at the location in terms of laser mapping, it could have been laser mapped as well.

60. I have been asked, had Hayfield Road been identified as a potential crime scene what steps, if any, would have been taken differently by PIRC in relation to the management of the scene. As a scene manager, you deal with the scene in its entirety. In terms of Garry with a background in crime scene management, the preference would have been that everything was there, everything was left there and that it was all fully documented, positions and otherwise. I think you would perhaps say there's always some consequences if you carry out actions that are not fully documented in a certain manner.

*Recovery of officers' clothing, footwear and officer safety equipment*

61. I have been shown my PIRC statement which states, with reference to DCI Houston:

*"He also informed me that all officers involved in the incident were to have their clothing, footwear and officer safety equipment retained and that this was being carried out within Kirkcaldy Police Office in a controlled and forensic manner."*  
(PIRC-00324)

I have been asked if I consider that the officers' clothing, footwear and officer safety equipment should already have been seized prior to this. I'd probably

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say to that that, again, Police Scotland can't make things happen just immediately as well. That would have been a conversation between Keith and senior officers within Police Scotland as to whether he was content with timings or how that was being achieved. My understanding was it was being forensically done, and all their clothing and equipment was being treated as per a production and labelled and sealed/bagged appropriately.

62. I have been asked if I would have expected PIRC to play a role in this seizure, or to have been present to witness it. Again, a bit of both there. Had we more scene managers there, yes, that would have been something that probably would have been overseen. I have since then overseen seizing of productions of clothing and equipment, including firearms. So, in an ideal world, yes, you would argue that, if you had the resources, you would have overseen that process as well.

63. I have been shown John Ferguson's PIRC statement which states:

*"I was aware that DSI Harrower had instructed PIRC investigators, witnesses Gary Sinclair and Maurice Rhodes to manage the scene at Hayfield Road, Kirkcaldy, which had been secured and cordoned off by Police Scotland. This was to be done in conjunction with the Police Scotland Scene Manager, to ensure the preservation and recovery of all available evidence. They were also tasked to oversee other matters related to this scene, including the recovery of the clothing, footwear and officer safety equipment worn and used by the police officers involved in the incident."* (PIRC-00363)

I have been asked if I would agree with this summary from John Ferguson. Yes, that would be accurate to a degree, with perhaps the overseeing of the removal of the clothing, etc. I think what John meant was we would have a knowledge of the clothing being removed and lodged, but not in terms of us actually being present at that being done. You can't be in two places at one time.

Signature of Witness



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64. I have been asked who compiled the Scene Managers Log (PIRC-04173). I know that John Ferguson compiled quite an extensive document in terms of certain productions, but I don't know if this is the one. John's document would obviously have been lodged as a production at the end of the Inquiry and placed on Clue. I don't know if this document is specific to John. I know he kept quite a sizable document in terms of his involvement in the management of the actual body.

65. I have been shown the Scene Managers Log at page 82 (PIRC-04173):

*"On investigation by PIRC, it would appear that when the officers returned to Kirkcaldy Police Office immediately after the incident no thought was given at that time to their clothing or equipment being taken as productions. The officers had removed their outer clothing and equipment and stored it at various locations in the office, some in locker rooms, the canteen or other areas."*

I have been asked if I had knowledge that officers had started removing items and putting things away in lockers or when I learned this. Prior to attending Kirkcaldy Police Office, no, I had no knowledge of that whatsoever. I wouldn't even be able to tell you where the officers were at that time. That would be something that would be more of a discussion or an instruction either from Crown Office and Procurator Fiscal Service, or from Keith Harrower, or from the Head of Investigations at that time. That's something I would not have been privy to or involved in. If I had been asked my opinion regarding something I would have given it. I don't recall that was asked, any of that, but bear in mind as well that I was called right around about 10.00 a.m. We didn't get there until 1 o'clock in the afternoon. At 1 o'clock in the afternoon, it's not straight on to the ground. It's basically the briefings, the meetings from that perspective and I would not have been 100% privy to some of the conversations that were being held at a certain level, at the level of senior officer to senior officer in the two organisations, or for that matter with instruction from the Procurator Fiscal. It would be fair to say that the investigator is the bottom rung - yes, with a certain

Signature of Witness



skills base, but the bottom rung, nevertheless. The decision-making is made above that, and it doesn't always involve the investigation level.

66. I have been shown Inspector Jane Combe's operational statement which, at pages 2 – 4, identifies that she was involved in the seizure of officers' clothing, footwear and officer safety equipment between 1647 and 2002 hours on 3 May 2015. (PIRC-00190) I have been shown DC David Bellingham's operational statement which, at pages 3 – 6, identifies that he was involved in the seizure of other officers' clothing, footwear and officer safety equipment between 1530 and 2105 hours on 3 May 2015. (PS00935) I have been asked if, on 3 May, I was aware that clothing was being removed from officers at that time. I was aware that clothing was being taken. I was aware that it was being done in a forensic manner. I wasn't present while that was being done. So, yes, I was aware that it was being done. We had agreed that that was the best course of action. Had there been more PIRC scene managers, then the possibility is, yes, we could have had a PIRC scene manager at that and overseeing that, but we didn't.

67. I have been asked if I was satisfied that Police Scotland was seizing these items in a timely manner. I couldn't have told you that, it was at three o'clock, four o'clock, beyond. Logically, it could have been done earlier but, again, I don't specifically remember their exact personnel and their skillset either, in terms of being able to achieve that any sooner. Perhaps they could have.

68. I have been asked if on 3 May 2015 I was aware of an allegation that PC Nicole Short was stamped on or kicked during the incident involving Mr Bayoh. I don't recall. I may have been, but I just don't recall that at that time.

*Gold Group meeting 1410 hours*

69. I have been shown my PIRC statement which notes that I attended a meeting with Police Scotland staff, chaired by ACC Nicolson, at 1410 hours. (PIRC-00324)

Signature of Witness



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I have been asked who attended and what I remember about this meeting. As I recall, we were all at that meeting. I don't know if John Ferguson and Stuart Taylor had headed off to the hospital prior to that. I certainly know that Garry and I, Alex McGuire and Keith were at that meeting. I seem to recall that John Ferguson and Stuart were there as well. There was a whole gambit of things discussed, including scene management but, again, the specifics I can't recall. What I do know is there was minutes taken by, I believe, a female police sergeant.

70. I have been shown typed minutes of the Gold Group meeting (PS07268). That's saying that John Ferguson was there. I seem to remember that we saw these minutes. I don't recall if it was later that day. Potentially it was later that day, but I don't think they fully accurately reflected some of the discussions that were given as well. Again, I don't know where this happened or when, but I believe it was that evening, but it was remarked upon by Keith that the minutes were not fully reflective of some of the agreements if I remember rightly. You would need to ask Keith that. As you can see there, the participants in the meeting aren't accurate for a kick-off, and that's the first six or seven lines. I don't recall what the substance of the conversation was, whether they were inaccurate in decisions made, or they were inaccurate in what was said, but I seem to recall there was a conversation that the minutes didn't fully reflect everything that had occurred. Now, that can happen.

71. These minutes refer to a "*Loci Strategy*" as part of the "*Investigative process*". I have been asked what the loci strategy was. No, I don't recall specifics but it would have been discussed. Loci strategy would be a generic term for speaking about the scenes, and it would always be put under that umbrella. What I do remember, and I've said before, there was multiple scenes that obviously couldn't all be overseen by PIRC.

72. The typed minutes of the Gold Group meeting state:

Signature of Witness  .....

*“PIRC looking for definitive point of contact with knowledge of all circumstances.” (PS07268)*

I don't know what that's referring to. On the face of it, it would tend to be, somebody who's got a knowledge of all the scenes. I suspect somebody who can be pinpointed to be on hand to be asked questions about all of the circumstances at that point. That's unclear, I would have to say. I'm having a guess at that. Generally, it would be the Scene(s) coordinator.

73. I have been shown Detective Chief Superintendent Lesley Boal's statement which states:

*“About 1330hrs Mr HARROWER and other PIRC investigators attended. A briefing, which provided the same information as provided at the Gold Meeting was provided. It was confirmed at this time that Sheku Ahmed Tejan BEYOH's sister was his next of kin and that she lived [redacted]. I highlighted to Detective Superintendent CAMPBELL that, given the information and chronology established along with identification by photograph, there was an urgent need to notify her of the death.*

*In the absence of any strategy being discussed, I suggested that, in the interim, each police lead would draw up a strategy, for example forensic strategy, house to house strategy etc and obtain Mr HARROWER's agreement and sign off prior to implementation. This didn't receive clear endorsement. The only real information provided was that there would be PIRC investigators deployed to the hospital to undertake body transfer to the mortuary; a couple of PIRC investigators would be deployed at the main scene at Hayfield Road, Kirkcaldy and Family Liaison would be handed over to the PIRC at an early juncture.” (PS00669)*

Signature of Witness



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I have been asked if I have any comment in relation to DCS Boal's assessment that there was "*an absence of any strategy*" discussed at this meeting. I don't recall her raising that concern. That would have stood out in my memory because I'm sure, if she'd raised concerns, they would have been addressed or attempted to be addressed. There was certain actions that we had discussed, and she's obviously noted them.

- 74. There was also the family liaison aspect where Police Scotland had assured Keith that family liaison officers would be deployed to the family. Now, I don't know that that was in relation to delivering a death message, but more in terms of a family liaison officer being appointed to be available for the family, and it would be the case that, where family liaison had been deployed by Police Scotland, there would be a time where that family liaison would pass to the PIRC. It would be an agreed time, an agreed meeting, probably with the family. I'm not a family liaison officer, but I've overseen family liaison officers in my time in the police, and Alistair Lewis, who, was my former colleague from road policing, I believe became the family liaison on this occasion. There would be no ambiguity about that.
  
- 75. I do recall is that the assurance that family liaison was going to be put in place didn't transpire, and later on that evening, I think around about nine o'clock, that still wasn't in place, and I remember actually saying to Keith, "I have a lot of experience from operational policing, particularly in policing spheres where you have multiple deaths on the road throughout the years, but it's essential that you engage with the family as soon as possible." It became apparent that wasn't happening from a Police Scotland point of view, so I implored Keith to go and meet the family that evening, and I think that's exactly what happened. I think Keith and Alex McGuire went to meet the family, so there was discussions ongoing throughout the day, it just wasn't that meeting. Again, there was meetings that we weren't present at, that other decisions would be being made while we were out at the scene, but specific to her point there that, "No clear strategy was given at that particular meeting," I'm a bit disappointed in what she's

Signature of Witness  .....



saying there, in that Keith Harrower is a stickler for these particular things, and I'm sure that if there was any concern raised he would have dealt with that there and then.

- 76. I have been asked if anyone from Police Scotland that I am aware of raised a concern of this nature with anyone from PIRC. I don't recall any - I don't want to say the word "conflict," but - there was none. I think the officer referred to had a bit of contempt for the presence of PIRC in her mannerisms. Whether that's reflected in what she's saying there, I'm not sure, but I don't recall where there was any concerns raised that were not being addressed or being attempted to be addressed, or specifically may have been said would have been addressed after consultation with others.
- 77. I have been asked, if at this stage on 3 May 2015, what my understanding was of the status of the officers involved in Mr Bayoh's arrest – if they were witnesses or suspects. My understanding is that the officers were being dealt with as witnesses. I don't recall it being mentioned in a meeting, but in many inquiries I've been involved in with PIRC, that would be stated that the officers were witnesses. Whilst I can't specifically say I remember it specifically being said on this occasion, I'm very much of the opinion it would have been said that they were witnesses in the matter.
- 78. I have been asked if it was PIRC's responsibility to decide whether to categorise a person as a witness or a suspect during an investigation. That's a bit above my pay grade. That's something that would have been decided at a higher level. Invariably, officers were always considered witnesses unless obviously there had been some criminality suspected but, again, I don't consider that was the case in this occasion. They were being treated as witnesses.

*Meeting at 1515 hours*

Signature of Witness



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79. I have been shown my PIRC statement which notes that I attended a meeting with DCI Houston at 1515 hours *“to discuss scene management and forensic issues, during which agreement was reached on how the now deceased’s body would be dealt with at the hospital and mortuary”*. (PIRC-00324) I have been asked if I have any recollection of what was discussed at the meeting in greater detail. I don’t recall specifics. I couldn’t even tell you who attended that meeting. Obviously, looking at my PIRC statement, John Ferguson would have been in attendance at that meeting because that was his specific role there. I remember being at the meeting, just not the specifics of it. Garry and I would have discussed the main scene, I’m quite sure, and what our strategy was going to be in terms of attending and overseeing and so forth.

*Forensic Strategy Meeting at 1640 hours*

80. I have been shown my PIRC statement which refers to a Forensic Strategy Meeting at 16.40. (PIRC-00324) I have been asked if I recall anything further about the specifics of this meeting. Again, no.

81. I have been shown Detective Chief Superintendent Lesley Boal’s statement which states:

*“At about 1700 hours I attended the Forensic Strategy Meeting, which albeit all PIRC investigators were present, was chaired by Detective Chief Inspector HOUSTON.”* (PS00669)

I have been asked if I have any comment on Detective Chief Superintendent Boal’s evidence that this meeting was chaired by DCI Houston, albeit with PIRC investigators present. I don’t recall 100 per cent. Rather than “chaired”, I don’t think that’s a great expression. I would say there would be an update by DCI Houston and, again, I think that any actions that would have been

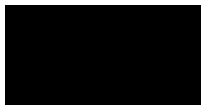
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agreed at that meeting would have been signed off by ourselves. Again, I don't recall it being that type of a formal meeting, again I do not fully remember, and therefore could be wrong. I don't know that there was any minutes taken. But "chaired", I wouldn't agree. I would say there would be an update by DCI Houston, which would be the case in any meeting, and the police, having had the main state/knowledge of events, would be in the position to give the best briefing. I don't think that would be unreasonable to expect.

*Meeting at 1715 hours*

82. I have been shown my PIRC statement which refers to a meeting with DC O'Neill at 1715 hours, at which DC O'Neill informed me that he had established a cordon at Hayfield Road and made arrangements to have the locus videoed, photographed, searched and mapped. (PIRC-00324) Yes, that's a fair reflection, other than the laser mapping was my suggestion. The participants earlier on were not aware of that capability in road policing. They had arranged for the 360-degree photographing, which is basically a camera which will shoot 360 degrees, which would have been normal at any scene, even a crime scene. Laser mapping was something that was new in road policing and specifically is way beyond 360 photography. It was actually me that introduced that at the first meeting and asked could that be arranged because, if I recall correctly, when the first road policing officers arrived on the scene, they hadn't been told that we were requesting, or were actually instructing that laser mapping be done, so they had to go and get that equipment.

83. I have been asked when I made this request of DC O'Neill, if it was at our first meeting. I don't recall if it was the first meeting or at the meeting with DCI Houston. I would tend to suggest it would have been at that first meeting, because it's something that I was obviously aware of, that it was a capability that, quite frankly, is used in all major crime scenes now, particularly murders, to map the whole area of the scene. Again, it was in its infancy, it's moved on a bit since

Signature of Witness  .....

then. It gives you the capability of, from several laser mapping from within the scene, it gives you the ability to see what people can see from their windows. In other words, is it can reverse on itself. So, if somebody was to say to you, "I could see from my window," the laser mapping can actually tell you whether they would be able to see that from their window or not. Laser mapping was in its infancy. It's moved on a lot since then. The actual laser devices have moved on since then, but that didn't preclude the 360 photographs being taken, which would have been normal anyway. It was just another addition that could have given the inquiry points of view, visions of view. From an overhead position as well, it can actually show you an overhead printout of the locus just from taking a laser print on the surface.

84. Within DC O'Neill's operational statement, DC O'Neill states, with reference to this meeting with me:

*"There had been no house to house enquiries carried out at the locus therefore there was limited information to base the perimeters of the locus."* (PIRC-00129)

I have been asked if this presented a challenge for us when trying to assess and manage the scene. For me, with any scene, you would take the scene out to where you needed to and then you would reduce it as you were capable of doing. So, the scene would be extended as far as you could and then you would bring the scene in, specifically taking off the forensic evidence that you get as you bring the scene in. I don't recall the specifics of how it came about exactly where the perimeters would be, but I'm sure it would be on what was available to them at the time. I don't specifically remember this in particular, but I'm sure that, at some point, Garry and I would have agreed with where the perimeters were, or we would have asked for them to be extended. The reverse works as well. You can't keep a road shut for two weeks. You need for daily

Signature of Witness



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life to go on. You would make available the parts of the road that you could as soon as possible without affecting any subsequent inquiry.

85. At the scene we would have discussed with DC O'Neill whether we were happy with the perimeter of the scene itself, the parameters of the scene management because, again, unless you're at a scene and you can physically see the scene, a lot of what you will decide will be determined on what you can see at the scene as well, or any other information that you're getting or evidence that you're getting from any potential witnesses.

*Attendance at Hayfield Road*

86. I have been shown my PIRC statement which refers to me and Investigator Sinclair attending the scene at Hayfield Road at 1920 hours. (PIRC-00324) I have been asked if there would have been any advantage to being at Hayfield Road any sooner. A lot of the items, evidence had been already removed. One of the problems with the scene would have been the onset of darkness, nighttime, which may have brought on some issues for the road policing officers in terms of how they went about mapping, or for that matter a forensic photographer, in terms of being able to take photographs. In fairness, even in the dead of night and in a road that's unlit, the SPA photographers can light up a whole scene and make it appear to be daylight, I can assure you. So, from that point of view, yes, the earlier you can get to a scene, the better, but the most important thing is having the scene secured.

*Return to Kirkcaldy Police Office*

87. I have been shown my PIRC statement which refers to a meeting with DCI Houston at 21.25, at which he informed me that most of the locus at Hayfield Road had been searched, but due to darkness the search would require to be

Signature of Witness  .....

completed the following day. (PIRC-00324) I have been asked if I would have expected the search to continue, or if I was content with this course of action. The darkness brings particular difficulties for a site search. To continue that, at that time you would have needed to have brought in lighting and all sorts. Better to maintain the cordon on that site and have a fresh search done during daylight. That would be perfectly reasonable.

- 88. I have been shown my PIRC statement which refers to the items recovered from Hayfield Road, including batons and the knife, having not been photographed by SPA. As the items were sealed and labelled in production bags and containers, I decided to arrange for the items to be photographed at a later date. (PIRC-00324) I have been asked if I was content with the actions taken by Police Scotland in relation to these items. Well, first of all, I wasn't present when they took them, when they removed them from the scene. What I can say is we had asked to see them, I think if you look back at my statement, round about five o'clock. At 16.40 "I wished to view the items that had been removed from the locus prior to being photographed by the SPA."
- 89. I don't recall what the reason was, but you'll see that we didn't actually examine those items until nine o'clock, and that became something we had to insist upon. I'm not saying there was a reluctance to show us, but it took us until nine o'clock to actually see them, and it was at our insistence. When I actually saw the items, as well as I can recall, they were bagged and labelled appropriately. They hadn't been photographed, and obviously we wished them to be photographed for evidential purposes. So how they were taken from the scene, that was done prior to us, I believe, even attending at Kirkcaldy Police Office.
- 90. I have been asked if we made an explicit request to inspect the items. Yes, if I recall rightly, Garry had actually said, "We need to see these items," and there was never a case where we weren't going to be able to see them but it just took a bit of time, and I don't recall why. I don't recall the full conversation we had

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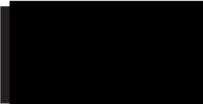
regarding that, but I do remember that at a point near to about nine o'clock that we said, "Look, we'd like to see these items. We'd like to see them now." So that was facilitated for us and, if I recall rightly, it was in another part of the police office which we were taken to see them. They weren't brought to us. I think we went to see them. It's quite a higgledy-piggledy office, so you've been downstairs and across and up, and it's not just down the corridor.

91. I have been asked if anything happened between 21.25 and 1.30 (on 4 May) when I came off duty. Well, it was round about that time, that from previous experience and operational experience that I had said to Keith - the police liaison officers had not been put in place as had been promised - and I said to Keith, "You really need to go and introduce yourself to the family, and really introduce who PIRC were." I don't know the chronological sequence here, whether he had left the office and then we went to see the productions, or we went to see the productions and then that conversation took place. I don't have a great memory of the chronology. So, between the productions and the actual time of stand down, I don't remember anything specific. The scenes by that time would be in darkness. We had agreed how they were going to be dealt with, and I don't recall any other event that would stand out between that time.

*Primary control of scene*

92. I have been shown PIRC's Scene Management SOP which, as part of an appendix titled "*Handling of Shared Scenes by Police Service of Scotland (PSS) and the Police Investigations and Review Commissioner (PIRC)*" states:

*"Where, following an incident, PIRC have primary interest in a scene, the PS SIO will ensure that primary control of the scene, in whole or in part as required (and in accordance with the principles set out in this document), is passed to the PIRC SI/DSI as soon as practicable."* (PIRC-03873)

Signature of Witness.  .....

I have been asked at what point on 3 May 2015 I considered that PIRC had “primary control” of the scene at Hayfield Road. Decisions were being made right away at that first meeting. Again, from my point of view, the overview had begun at that point. Certain decision-making had begun at that point. Specific instruction that may follow would be continual. It would be both from a SOP point of view but also from a physical point of view when you were at the scene. For instance, the drainage system or the searching of the hedges, etc., they would be done in a physical form at the scene. So, until you get to a scene, you’re unaware of what you have in the scene. Decision-making can happen throughout that whole process.

- 93. From a perspective of the oversight of the strategy, that would have been started by Keith. It’s quite specific there, SI and DSI from that very first meeting, and that would continue, and flow via myself and Garry from any specific request or instruction that we would give at the scene. So, for instance, the opening of a scene is no longer at the behest of the police. It would need to be signed off by Keith and us saying to him, “Yes, that’s fine.” So, yes, PIRC has direction over the scene.

*PIRC investigation on 3 May 2015*

- 94. I have been asked if I was content with the support that PIRC received from Police Scotland in relation to PIRC’s investigation on 3 May. Well, in terms of the scene, ideally nothing would have been removed. The knife would have still been in situ and the items would have been in situ for our overview. Those decisions had already been made, and those actions carried out but, ideally, as with any scene, that wouldn’t have been what I would’ve done. They would’ve been in place until they were fully photographed and forensically seized and removed. Again, I harp back to the laser mapping. They would’ve been laser mapped, so their exact location was understood and photographed but decisions had already been made, and they had already been removed. Ideal? No, I don’t think so. However,

Signature of Witness  .....



it would also be fair to state that the Police would be making decisions on the information available to them at that time. But the fact that Sheku Bayoh had been removed from the scene by ambulance would be your step for a hint. Had I been the senior Police Officer everything would have been locked down until a medical update had been obtained.

95. I have been asked if, with the benefit of hindsight, would I make any decisions differently in relation to the management of the scene at Hayfield Road on 3 May. The limited resources we had - we achieved what we could at the time. Would it have been preferential and more ideal to have more scene managers perhaps for the other scenes as well? Yes, absolutely, but again, the numbers in PIRC have moved on, so that capability will have improved and may improve further. I believe communication as well perhaps improved through experience of incidents - not just this incident but other incidents where you learn through experience that instructions have to be given very clearly and very early. So, yes, you ask if lessons could be learned. Yes, absolutely. You learn lessons in everything. Every incident you go to, you can learn from it.
96. I have been asked if I had any contact with the COPFS on 3 May. Personally, no, I don't think I did.
97. I have been asked if I had any communication with representatives from the Scottish Police Federation (SPF) on 3 May 2015. I don't recall. I don't think so, but I don't recall. Again, that would have been Keith's responsibility.
98. I have been asked if I consider that my colleagues and I, as PIRC investigators, had sufficient powers to progress the investigation on 3 May. I mean, at the end of the day, a PIRC investigator has the same powers as a police constable. So the powers were not the issue. The powers were in place. Resources were, yes, absolutely a challenge and could have been improved, but you can only do what you can with the resources that were available on 3 May 2015.

Signature of Witness



99. I have been asked if I on 3 May I gave consideration as to whether race could be a factor in the incident. No. Again, to categorise the incident as a racial incident was above my pay grade. That's something that Keith would be responsible for, in consultation with COPFS. On 3 May, there was no mention to me whatsoever about any racial context and I had no reason to believe otherwise.

100. I have been asked if the police officers that I had contact with on 3 May 2015 had an awareness and understanding of PIRC as an organisation and PIRC's role within the investigation. I would suggest not. PIRC came about in March 2013. I think you'll find in Police Scotland today there's still some misunderstanding about some of the PIRC roles. I certainly found that up until when I left, and that could be individual officers. That's not to say it's senior management, but it could be individual officers, some of whom would not fully understand the fact that a PIRC investigator had the same power as they did in terms of investigation, but in a wide area of other responsibilities, a lot of police officers would not have that full understanding.

101. That would also apply back in 2015 to senior officers where you would turn up at incidents and they were of the opinion you were there to observe, and they misunderstood that the control, the actual decision-making, was passing from them to PIRC and a lot of them didn't understand that. In fact, they would come across as shocked at that becoming apparent to them. So, yes, that always had to be part of the conversation to be pointed out, that actually the investigation was being carried out by PIRC.

102. Sometimes that was a joint investigation. Again, that would be an instruction from Crown, and there would be other times where it was very evident - that the Crown Office and Procurator Fiscal Service had made it very clear to Police Scotland that they were no longer making the decisions. It was PIRC that was making those decisions. A prime example is that the death in custody in Dumfries, where it was

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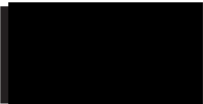
made very apparent to the police officers that the scene had to be closed and they no longer had to enter the scene, but that was a scene easy to manage, easy to restrict and easy to deal with. Hayfield Road had a lot of elements in it that were totally different to that. At times there wasn't always a clear understanding by the on-duty procurator fiscal, of what PIRC was, who the PIRC were, and where responsibilities lay. I can remember on one occasion that an on-call procurator fiscal made the decision that the police would remain in charge, only for that to be hurriedly changed when that person realised the purpose of PIRC, and had sought advice. So, it wasn't just in the police, it was in other organisations as well.

103. I have been asked if I would expect the Senior Investigator to remain in Hamilton in an incident like this. Again, that's a decision purely for them. I would have to say that depends on the individual. Some would attend, some wouldn't attend but, again, that's something I think that's best left to them to justify or otherwise.

104. I have been asked if on 3 May itself, I had any awareness of media coverage surrounding the incident. No. There was other things on the go at the time, so no. I mean, bearing in mind there was a team at Kirkcaldy but there was also a form of backup - SI Ricky Casey was in the office. Now, what you would get would be a DSI dealing with the operational side of things and the SI dealing with that side of the equation, the media, but from my perspective, I had no outside view on that day of anything else happening other than what I was involved in.

105. I have been asked if I had any awareness of reports on 3 May of a female police officer being stabbed. Stabbed? I don't recall that. I may have seen or heard it. I may have done, but I don't recall that. "Stabbed" in particular is a specific word. I don't recall. But I clarify that by saying I may have. I don't recall that but, yes, it may have happened. I just do not recall it.

*Scene entry log*

Signature of Witness.  .....

106. I have been shown a Scene Managers Log (PIRC-04173). If this document was lodged as a production in Clue it would have the person seizing it and logging it. For instance, if it was John Ferguson's document then it will have his name on it on Clue.

107. I have been shown commentary in relation to the completion of the scene entry log:

*"There is no scene closure section in this log. The log was initiated at 10.45 hrs on 3/5/15. There are no entries indicating persons accessing the scene prior to its initiation. There is inconsistency in relation to forensic dress noted by loggist PC 625 re CSM DC Oneill who is not wearing mask or suit but wears shoe covers and gloves. This is at odds with entries at 1835 hours 3/5/15 when DS Oneill and socos Foy and Paterson are fully forensically dressed."* (PS17853)

I have been asked if it was PIRC scene manager John Ferguson who reviewed this. Yes. The commentary continues:

*"PIRC SM JF reviewed this and note DC Oneill is clearly inconsistent in his approach to forensic dress as recorded, however this is not to be over critical given that he is wearing gloves and overshoes and the area had been subject to heavy rain that day. Also he was not engaged at this point in the recovery of articles. From his statement the officer is clearly initially reviewing the scene for cordons and the articles of relevance had been seized already.*

*It is however good practice to have a consistant [sic] forensic approach to scene management given that there is an "unknown quantity" in the approach to the potential evidence that may be uncovered at a scene and the potential problems caused by cross contamination and high sensitivity of DNA 24 processes.*

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*The Scene management log was not present initially with PIRC (requested by prods Garry Sinclair per DS O'Neil). Arrived with PIRC 29/5/15.*

*The scene management log had been completed by DC Oneill. There is no record of PNC checks being made in regards to the vehicles within the cordon*

*The management log was not reviewed by an SIO in relation to the completion of the log.*

*Police Scotland do have a responsibility in the accurate recording and review of their actions prior to submission to any external agency such as PIRC / PF.” (PS17853)*

108. I have been asked if it was PIRC scene manager John Ferguson who reviewed this. Yes. I would most definitely say to you that's John Ferguson's document. I have been asked what the purpose of this review would be. Well, I'm totally unaware of this as part of his document. John Ferguson may have been asked; he may have been tasked to do that. He may have been asked to do that as a review, which would normally have been done by the SIO, sometimes by an SIO of scene management. Sometimes you could have an SIO for the incident, and you could have different persons in charge of the various aspects of an inquiry, so it would be up to those people to write off on their element of responsibility, and it may be the fact that John is alluding to that and, as a result of that, he's maybe took it upon himself or been asked or been tasked to actually carry out a review. The answer to that would be best answered by Billy Little. What I would say in terms of what John has said, a scene management log would not always be started in that form at a loci or a location. In general, it would be started in a police officer's notebook, that's correct unless they had a document on them.

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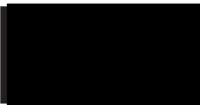
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109. It states, "There is no scene closure section in this log." Okay, it's maybe not been. "The log was initiated ... There are no entries indicating ... accessing the scene prior to its initiation." I would suggest there that what would normally happen and what police officers are taught and I use the term "crime scenes" or "scenes" interchangeably. They would initially, where they knew it was going to be a serious incident, start a scene log in their notebook. Invariably, there are a couple of issues with that: one, some of the officers that may be involved in an incident may have other things in their mind. They may actually be doing other things. They may be inexperienced to remember or know to start that log process, that documentation.

110. What you should find is, where there's a supervisory officer who appears on the scene, they should be detailing somebody, "You're now the log taker. Get your notebook out and start noting everybody that comes into the scene." There'll come a point where an incident becomes of such a nature that it becomes a forensic scene as well. At that point, to be honest, nobody should be getting into the scene. At that point, it should be documented if anybody does come into the scene. But, at that point, you would expect a scene manager to be in position and making decisions about the scene, the parameters of the scene, formulating a plan of how they're going to deal with the scene, who they require, what specialisms they require. Do they need a biologist, a chemist, a photographer, road policing for certain aspects?

111. That would be no different for any other scene. A fatal collision: the police attending at that, the scene is locked down because until you know otherwise, it could be a crime scene, a potential crime scene, so you would treat it as such, and that's why I'm saying that you would take the parameters as far as you decided you need to, which would be beyond where you needed, and then you would bring them in as you saw appropriate, and open up as you saw appropriate.

112. There would always be pressures on you to open, for instance, a main network of roadway to a hospital or whatever. There would always be those pressures,

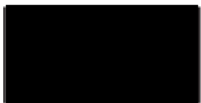
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and that's where you would need a strong scene manager to resist that, and on a scene management course, you quickly realise that it's not rank specific, it's role specific, and you then decide who gets in and gets out. So, that's where he's coming from there. The scene perhaps was not - from a log point of view, a paper point of view - not just quite managed as you would expect. But how was it identified by the police initially? You know, that's the questions that have to be answered by other people.

113. I have been asked about my name not appearing within the scene entry log. (PS17853). I have been asked if I would expect Police Scotland to make a record of PIRC attending the scene. Yes, yes. When we attended the scene, we would have identified ourselves, we carried identification to that effect, which included our authorisation from the Commissioner. I would always have made a point to identify myself to the scene manager, always. I would've expected us to be logged on that as having attended the scene, bearing in mind that is just attending the scene, so it should record the time you arrive and the time you depart. I don't want to hark back, but the scene had already been cleansed, as it were, of all the items of a certain nature, so, from that point of view, there had already been certain decisions and actions taken prior to our arrival. Therefore, there was no reason for us to enter what was left of the scene, and as such would be why we may not be noted on the log. However, to me it would have been good practice to have noted PIRC investigators on the log as having been present.

**Monday 4 May 2015**

114. I have been asked if I attend a PIRC briefing on the morning of 4 May 2015 at the PIRC office in Hamilton. I don't know if I put it in my statement. I didn't go home until about 3 in the morning, but I was back out early that morning. I do recall that. I would have went straight to Hamilton. If there was a briefing, I may have been party to that, however, I may not have been in the office in time to be party to that. My understanding is, at that point, Billy Little was my DSI, so effectively my line

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manager. That would tend to suggest that Keith may have been standing in for Billy on that occasion. In those days, the way the inquiries would work is they would be on a rotational basis, but if you were on-call and you were party to an incident, invariably that inquiry would come to your team. Not always but invariably it would come to your team, but there would also be other considerations taken into account as well on the operational experience, or the experience, full stop, of the DSI in terms of taking on such an inquiry. Not every DSI in PIRC had a police background.

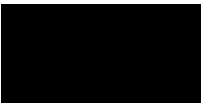
115. I have been asked if I recall what handover I, and other members of PIRC staff who were involved in the investigation on 3 May 2015, provided to DSI Little. As my line manager, Billy and I spoke all the time. We were both inspectors in the police. Our paths crossed in the police, in particular when he was a detective inspector at Partick, and I was a group inspector at Partick. We were involved in major incidents in the police together as well. So, we would have discussed on a daily basis everything that was happening within our remit in PIRC to a degree. Again, there was a level of professionalism where areas of responsibility above my responsibility would have been dealt with by Billy on that basis, and he wouldn't always include me in any decision-making, which is absolutely right.

116. I have been shown an extract of the evidence of DS Campbell's evidence to the Inquiry (day 49, page 73, line 5):

*"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*

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*know what I mean, before that ... before Billy Little's appointed around that. So again, there was challenges with the fact that the change of a senior investigator from PIRC at such an early stage of a critical investigation would undoubtedly cause challenges.”*

I have been asked if I agree with DS Campbell that the handover of responsibility for the investigation to DSI Little caused “*challenges*”. No. Pat’s assumption there is way off the mark, in my opinion.

117. I have been shown my PIRC statement which refers to DSI Little informing me that I would be part of the ongoing inquiry team. (PIRC-00324) I have been asked when my involvement ended. There was no specific day that my involvement stopped, probably on the day I retired. Like all the major inquiries in PIRC at that time, and bear in mind this wasn’t the only major inquiry going on, you’re talking about a staff of 22 investigators and shortly after that, the M9 incident occurred. So, you would find that, in these incidents, it was all hands to the pump. You would fulfil a pretty hefty workload over the first couple of weeks, and then that would obviously tail off. Naturally it would tail off, but I believe I was still attending actions on that inquiry for at least two or three years, some with, in fact, Billy Little; other meetings involving Crown Office and Procurator Fiscal Service. For instance, it was myself and Billy Little that took all the productions to hand over to Crown. This was a couple of years down the line but in terms of an investigator’s involvement after the initial day of events, it’s led by actions to take a statement, to seize a production, to interview someone, literally everything then is done by the management system, Clue. It would be an action. The SIO would decide, “That needs to be done, that needs to be done.” I believe there was an office manager set up for the inquiry as well, which would tend to be a person who would be managing and processing those actions to be done and coming from potentially a witness, you would get another action which would lead to another maybe three or four actions. A live incident would just basically grow and

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be managed in that direction. Policy and specific direction of the inquiry was way above my level. That would be decided at SIO level and beyond.

118. I have been shown my PIRC statement which references Investigator Davidson and I completed house-to-house enquiries on 4 May. It also references me completing house to house enquiries on 5 May. (PIRC-00324) Garry had been a detective inspector, and my skills were in road policing. So, in terms of this specific management, although I was able to bring to the table a few things that may not be considered by a person from CID background, Garry had that experience in inquiries of a certain nature that would be dealt with. It was logical that he would remain in that area of responsibility and then I used to take on other duties. That's totally logical and sensible.

119. I have been asked what consideration was given to asking Police Scotland to assist with certain house-to-house enquiries across 5 and 6 May. I think what you would find there, there would have been a house-to-house strategy which would have been prepared that morning and that afternoon. Hence, perhaps, the time delay but everything has to be planned. There's no point in doing a door-to-door when you miss five doors. That strategy has to be put in place as well. That takes a bit of time. There would probably be certain questions that would be asked within the house-to-house strategy that we probably took to each house. So, it's not by my own choice or by coincidence or by any other manner that I went to those specific addresses. It would have been a planned strategy from the house-to-house strategy.

**6 May 2015**

120. On 6 May I took a statement from DC Connell concerning his seizure of the knife. (PIRC-00047). Yes. I was asked earlier on here today if there was some difficulty encountered in some of the actions that had already been taken and that was one of the specific issues. This is where when I spoke about scene management,

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that everything is left in place and it's all forensically documented and forensically removed. Exactly where the knife was on the area of grass was an issue because we actually were provided, I don't recall if it was a Google Map or a photograph map of the actual scene, and we were actually asking the witnesses to put an X on the map where they can recall where the knife was. Now, that's not ideal obviously.

**7 May 2015**

121. I have been shown an email I sent on 7 May to Police Scotland requesting assistance for a witness canvassing and road check operation to take place on Sunday 10 May 2015. This email stated:

*"Due to the sensitivity of the family's perception of local officers, it is requested that the Road Patrol Officers are sourced from a different command area."*  
(PIRC-02663)

I have been asked if I can give any context to what I meant by "the sensitivity of the family's perception". I don't recall writing that email. I don't recall what my thought process was there. To explain how that would come about, only a police officer in uniform can stop traffic on a road. Although the PIRC investigators have the powers of a constable, that doesn't include stopping a vehicle on a road. That's why the request would go to Police Scotland to assist - to stop the traffic. As I recall, there would be specific questions that would be asked. That would be normal for any scene where there are vehicles passing a scene. Specifically, you would probably do that seven days later because you're trying to capture the same people who use that road specifically on the same day every week, perhaps going to work in the morning and so forth. It's a technique that would be used. There was also CCTV from the pub there which obviously identified to us lots of vehicles passing through that locus including, in particular, taxi drivers, ambulances and various other identifiable vehicles,

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post office, etc. So that was the reason that you require police officers in order to carry out the check.

122. To me, it's always good practice not to involve officers from the area when you're carrying out subsequent inquiries if possible because, again, there would have been, I'm sure, traffic officers who attended that scene. As I understand it, there was an assistance call put out which would literally have vehicles coming from as far as the control room would deem appropriate. My actual specifics round about that comment, I don't recall the context of why I said that, but there would have been a reason for it, I'm sure. I just don't recall what that was, whether it's after a discussion with Billy Little or not.

123. I don't remember if this was specifically my train of thought there, but in communities where there's been an incident you will have certain hostilities towards the police or local police. I stress here I'm telling you what I think. There may have been previous contact, and I stress that I don't know if there was. I would be probably thinking outwith the box to bring in staff that were not recognisable by anybody in the area, that there was no previous contact. Equally, I would say to you that the only reason I would ask for road policing to carry out that check would be the fact that it has to be a police officer in uniform that stops the traffic, and specifically where you're actually doing a check of that nature, i.e. you're taking traffic aside, it has to be managed, the way that happens, road policing have the skillset to do that. That would not be a divisional officer I would ask to do that.

124. I have been asked if Police Scotland fulfilled this request. Yes. I'm absolutely convinced that they did supply road policing officers to carry out the check because, the check I'm sure was carried out. I couldn't answer if they provided officers for this from another area but I would have expected them to do that. To be honest, with the nature of road policing, road policing officers don't always come into contact in their local area. Road policing hubs tend to be few and far

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between. So, invariably, road policing officers are not known specifically to the local community, but I would probably just be doing belts and braces by making that request.

**12 May 2015**

125. I have been told that Investigator Sinclair attended a forensic strategy meeting on 12 May with representatives from COPFS, Police Scotland, SPA Forensic Services and Crown pathologists on this day. I have been asked if I attended this meeting. I can't recall that.

126. On this day I took statements with Trainee Investigator Lynn Ungi. Some were "noted" by me in her presence, and some were noted by Investigator Ungi. I have been asked when a statement is taken "in the presence of" a PIRC investigator, what is that investigator's role within the interview. Two investigators would be there for corroboration purposes. Lynn Ungi was still a trainee at that time. We would be tasked through a Clue action, which would've been decided by either the officer's manager or the SIO, or even another DSI, or even another investigator who was making up actions, to go and take statements. So, the action would be given to me. It would record me and who was going with me and what the purpose of that action was: to trace and take a statement from John Smith. We would go along and we would take that statement. I would take that statement in Lynn's presence. So Lynn, a trainee at that time, would be shadowed by me, not just for the fact that she was taking a statement for corroboration but also to teach her the elements of taking a statement, what was required, to listen and make sure there was nothing missed, to make sure it was chronological, and to make sure she was comfortable, and also to train her as a trainee, to train her to come up to the standard required of a statement. Those actions would be shared out amongst the two of us.

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127. If it was a more important statement in terms of who the person was or what the nature of the statement had to be, be it a sensitive statement or the fact that it was quite a complex interview, then it would've been me as opposed to the trainee. Now, if that was two senior investigators, i.e., the likes of me and John Ferguson or me and Garry going, we'd have just split it down the middle. You would always have had the second person there because it doesn't matter how good you are, you always miss things. You'll think about something and you'll not get it. So that's the only reasoning behind that. But, from that kind of management of that, Lynn was still a trainee, so I was still there to observe and teach her the art of taking a statement.

**20 May 2015**

128. On this day I was informed by DSI Little that I would form part of the CCTV review team (PIRC-00324). Yes, it took us weeks, months. The CCTV was from Gallaghers Pub, I seem to recall, which really had the pre-incident, the incident, the post-incident. I don't recall the timings, but it was quite a lengthy piece of CCTV, and initially, I think it was myself and Alec McGuire, worked on the CCTV for literally four weeks. Initially, what we were trying to identify was every vehicle that went through the scene, so we were actually trying to identify drivers as potential witnesses. We later moved on to identifying drivers within the chronological sequence of events and evidence, and then we later went on to analyse the whole CCTV in terms of its entirety, including what we could make out of the actual interaction between the police and Mr Bayoh. So, it was quite a few enquiries within the one element of the CCTV.

**Officers providing statements**

129. I have been shown a PIRC interview strategy to be used when interviewing the officers involved in the arrest of Mr Bayoh (PIRC-04182). I have been asked if I had any role in creating this strategy. No. It's a specific discipline. You have to

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be a strategy person for doing interview strategies. I believe that may have been Garry Sinclair that completed that document.

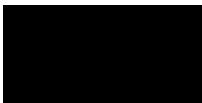
130. I have been shown the minutes from PIRC’s morning briefings on 3 June with reference to an update that DSI Little provided, which state:

*“A generic interview plan has been completed by IO Sinclair. Everyone has to do their own individual reading for their specific officers to add to the generic plan.”* (PIRC-04156)

I have been asked what kind of reading William Little intended for individual investigators to undertake. I don’t recall that. In the lead-up to taking the statements, there was discussions. Obviously, an interview strategy was put together. It would’ve been a general, generic statement to say, “Read up on documents surrounding this particular new witness,” as it were, bearing in mind the witnesses had not given a statement before. From my perspective, I was relying mainly on the interview strategy, and bear in mind they were classed as witnesses. We were taking a witness statement.

131. The minutes from PIRC’s morning briefing on 3 June identify that there would be a *“further meeting this afternoon to discuss tomorrow’s interviews”*. (PIRC-04156) I have been asked if a further meeting took place. There might have been, but I don’t recall.

132. I have been asked what the importance is of PIRC being in receipt of operational statements of police officers involved in the death of a person in police custody. Well, the importance is evident: it’s their recollection of the events, it’s their side of the events and, frankly, it’s critical to the whole inquiry, bearing in mind it’s roughly about a month later, prior to getting the agreement for the officers to give their statement. Until then, there’s certain aspects of the inquiry - I’m not saying they’re held back, but until you know what a particular officer is saying about

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themselves and other officers and the circumstances, you can only rely on what you know to be a fact from any CCTV you see or from other witnesses' accounts, which may not be accurate in their own right. So until you actually speak to a witness and you obtain a statement, then there's parts of the investigation that, after that statement, would come from that statement and then there would be actions coming from that to look at the verility of that statement.

133. I have been asked if I had dealt with a situation - prior to May 2015 or afterward - in which officers did not provide statements for several weeks after an incident. Yes, there would be occasions where an officer would be on holiday or had finished duty. Or where the incident hadn't really come to the attention either by the police or the Crown Office and Procurator Fiscal, or otherwise hadn't come to the attention of PIRC, so it was maybe a few weeks sometimes, months down the line before an operational statement was noted. Obviously, these officers had the opportunity to give a statement a lot sooner and didn't, and I get that, and I see it from that perspective, and, yes, that is the case, it took a month. Again, that's something above my paygrade, that those discussions were happening. But it's fair to say I knew that obviously their statement hadn't been given and it was a month down the line that those statements were being taken, and that they were being taken under circumstances that we were actually going to the Scottish Police College in order to obtain those statements.

**4 June 2015**

134. On 4 June 2015, I took a statement from PC Kayleigh Good with Kareen Pattenden. (PIRC-00274) I have been asked if PIRC had process on 4 June to compare the contents of statements from the officers that attended Hayfield Road to identify any areas of inconsistency. We attended the Scottish Police College. We were actioned and tasked in twos to go and take a statement within the accommodation within the castle, which was pretty uncomfortable, to say the least. I think if you realise that a month had gone by, the important thing was to

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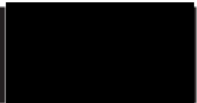


get the statement without causing any more disruption. So, to get the statement, beyond those teams who actually went into the rooms, there was also Billy Little and John McSporrان there in another room in order to deal with any situations that arose. I may be wrong here: I don't specifically remember any instructions that we would get together and discuss – either throughout, at the start, the end or the middle – what was being discussed in individual statements from the officers as to any strategy or otherwise that would've changed or altered. I don't recall that. The only thing I do recall is that if there was any incrimination – and I think I'm right in saying this – then we had to stop the interview, stop the statement and go and speak to Billy and John. I think that was discussed. But in terms of sharing the content of the statement at any time throughout the statement, no, I don't think that was discussed. I may be wrong, but I don't think it was.

135. I have been asked if PIRC had process after 4 June to compare the contents of statements from the officers that attended Hayfield Road to identify any areas of inconsistency and assess if further statements were needed. I wasn't party to that, but I would say that, most certainly, the statements would certainly have been examined by people, certainly the SIO, other than the persons taking the statement - myself and Kareen.

136. I have been shown the section in PC Good's statement which reads:

*"It is rare that an emergency button is pressed, so when they are pressed you take it seriously, and because of the nature of this call, I made the conclusion that she may have been stabbed. I was also thinking at that point of the Lee Rigby incident in London, mainly due to the fact of the coloured male and the potential terrorist connotations. In addition, I recall that there were many emotions going through my mind and I reminded myself of the briefing of when I first started at the turn of the year, where intelligence had been received by the police that there would be a potential attack on female police officer. I was actually shaking physically, it was uncontrollable. You don't really get training*

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*to deal with this sort of incident. It was fair to say that I was panicking at that point and was fearful for my own safety.” (PIRC-00274)*

I have been asked if I had any thoughts about PC Good’s linking Sheku Bayoh being Black and any potential terrorist connotations of the incident to the case of Lee Rigby. No. The main objective here was to get the statement. I’ve taken many statements both in the police and in PIRC. Witness statements, I write verbatim what the person says to me. I don’t question that. I write verbatim what they’re saying because it’s what their thought process is and it’s more important for me to capture what they are saying. I’m more concerned at getting verbatim what the witness is saying to me.

137. The connotations of any of that? I could point to other statements where I think to myself, “This is ridiculous,” but that’s not for me to decide. I write what the person is saying, and in the Sheku Bayoh investigation, I was asked to take many statements, and some of them, to me, were absolutely ridiculous, but I wrote what the person was saying to me because it was their firm belief, not my belief. From my point of view, I am trying to capture exactly what that person is saying to me. My main concern there is getting that and getting their thoughts onto paper, so I wouldn’t specifically look at the connotations of that. I wouldn’t, at the time of writing that, make any assessment of that. I would just write the statement down.

138. It’d be different if you were doing a suspect interview, and then you would take everything, just as I’ve done, and then you may challenge some things. But this is a witness statement; that’s how I took it. After taking the statement, if it was decided that certain aspects were found to be factually incorrect or otherwise, it could be re-examined. I know there was a large amount of work went into trying to trace the source of that comment about the briefing about intelligence on a terrorist attack. If I had missed that because I’m trying to work out interpreting or challenging somebody on something, that’s a critical piece that would not have been then taken on to further inquiry. So, from me, getting the statement was the

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important thing, then how it's interpreted after that and what further work needs to be done would then be done in the cold light of day, and then decisions would be made about how those further actions would go further. In relation to that one comment, there was a lot of work that had to be done to try and trace the source of that comment.

139. I have been asked if anything struck me at the time when PC Good used the word "coloured" to describe Sheku Bayoh. No, I take you back there to, "I capture verbatim what a person says to me." It was a long interview and in very uncomfortable surroundings, I may add. It wasn't very comfortable at all. It was very warm. I was more interested in getting everything written down as opposed to analysing anything. So probably the answer to that is no, nothing struck me in that. There's quite a few comments in that one paragraph that, yes, you would consider you would have further action from, but, that's not my purpose. My purpose was to get that information on paper and take it from there. A lot of people would say, "Well, why would you not challenge this or that?" But if you sat for eight/nine hours and wrote for eight or nine hours. My task was to put it down and get it down because it wouldn't have been captured otherwise.

140. I have been asked, following PIRC's terms of reference being expanded by COPFS to look at whether there was inappropriate conferral between police officers and to investigate issues of race and conduct, if any consideration was given to obtaining further statements from the officers that attended Hayfield Road to explore these areas. I certainly wasn't tasked with doing that. Whether that task was given out, I couldn't confirm one way or the other. I mean, by that point, it was a few months down the line. September seems to ring a bell now, for some reason or other – but I certainly wasn't tasked with doing that, whether that task was given out, and it could've been. It could've been.

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**July 2015**

141. I have been shown my PIRC statement which details that on 6 July I was tasked with assisting with the aspect of the investigation into the four officers who were observed on CCTV talking about the incident on 3 May. (PIRC-03194) I took statements from Alan Seath and Christopher Harris (PIRC-00269), PIRC-00342). I have been asked if, as part of this investigation, I reviewed the CCTV myself. I recall going back and attending Kirkcaldy Police. It seemed as if I was there every single week. I recall going back and working on CCTV from within the office, from within the cell block, trying to retrieve CCTV from the secure yard and from the backyard. We were trying to trawl and take every bit of CCTV from Kirkcaldy Police Office. I don't recall if I was specifically tasked with reviewing it, but possibly I was. I potentially took a statement from somebody in the cell block. It would be in my statement if I did. A lot of the inquiries I was involved in in PIRC – and I was involved in all the major inquiries – kind of bleed into one another from a memory perspective. I do remember trying to identify officers in pictures, but, again, I would need to stress to you I don't recall whether this is the cell block because I know there was other occasions where I had photographs of the scene identifying the officers involved in the actual incident. So, I could only say it rings a bell. In terms of the officers in the cell block, that would have been a logical thing to do, to show photographs and say, "Can you identify these officers?" The purpose for that would be twofold: one, to get a statement from those officers, and if it was directly concerning comments made, to then ask whoever made the statement to comment on a statement in a witness statement.

**26 August 2015**

142. On this day I and Investigator Pattenden took a statement from a witness Kevin Nelson. This was in addition to the statement Kevin Nelson had given on 5 May 2015. (PIRC-00020) I have been asked if I recall taking this statement. No, I don't. Obviously Kareen led on that. The flyer mentioned rings a bell, and I know that

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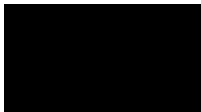
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was part of actions given out to investigators. I don't remember the context of that, I'm afraid.

143. I have been asked about Kevin Nelson seemingly not being asked about the alleged stamp by Sheku Bayoh on PC Short, which he may have been a witness to. This alleged stamp had been referenced by PCs Walker and Tom nson in their statements which given by this point. I have been asked if, when taking a statement, I would be given a specific instruction of what points to cover with a witness. Absolutely yes. It's a distinct possibility where the statement was to clarify the position regarding the flyer Mr Nelson received. That could very much be the case. Again, you would need to look at the Clue entry for that – what was the specific instruction. I get the point, where you could put other things to that witness, but there's nothing to stop you taking another statement from a witness. The point I'm making is that if that had been missed and then identified, it would be easy to say there's a Clue entry to say, "The task is re-interview Kevin and clarify X, Y or Z."

144. I believe in this case there was an office manager set up. Now, what would be the normal way of dealing with it: you would get a statement in, that would be read by a statement reader who would pick out critical points, and then we'd task actions from that. So, I think there was an office manager instigated for this. That would be something you would need to ask that person.

145. I have been asked who that office manager was. I don't want to say something here that I'm not getting right because a lot of inquiries bleed into one another, and they're all serious incidents. There was officer managers for several incidents. I think there was an office manager for this, and if it was, I think it was DCI Ian MacIntyre. Ian was an office manager when he was available. If you had performed a role in the police, it was something that PIRC would use, rightly so, during their inquiry.

Signature of Witness  .....

**31 August 2015**

146. I have been shown a statement that I and Investigator Alex McGuire took from Police Scotland's Strategic Communication Advisor Lucy Adamson where she provided us with various labels. (PIRC-00325) (PIRC-00387) I have been asked if I was generally content with the support that Police Scotland provided to us in relation to the management of productions in this investigation. I don't recall there being any issues - other than, as I've explained on the date of the incident. In general, there was no issue getting productions from Police Scotland. The biggest issue would come from identifying the right person to be able to give you that information. Not only identifying the right person but finding the person technically astute enough to be able to remove the documents from their system. We had the power to take any documents, any production, so that was never an issue. It was actually getting the person to actually be able to take the document from their system.

147. I can tell you from that interview, that system was alien to me, totally alien. I would take the person as read that they were giving me everything that was on that system that I needed. Sometimes I'd ask them to show me the system so I could get a general understanding of how it worked. This was from a media perspective, so it was a bit alien to me. It's something I never, ever did in my career, was the media side. I was often asked to make comment, but it was always done through media services, who would then proof anything I had to say. Police Scotland IT systems are literally a nightmare. They can show you what's there but ask them to produce it and they'll tell you the system can't and systems don't speak to one another. A lot of the time the people who actually maintain and keep the systems are at Helen Street in Glasgow, so you would have a system that was housed here but actually administered by Glasgow or vice versa. Trying to get that became problematic, through no fault of anybody's.

Signature of Witness  .....

**2017**

148. I have been told on 17 February 2017 I and Billy Little attended a meeting with COPFS and handed over productions. On 27 December 2017 a meeting occurred between COPFS and PIRC staff including me, Billy Little, Kevin Rooney, Stuart Taylor. I have been asked, from 2015 onwards, what was my involvement in the investigation was. Bear in mind, from that point, there were several major incidents occurred that I worked on, so there was no longer a permanent team. You would move on. It would be all hands to the pump: firefight a couple of days and then it would tail off, but in between that, because of some of your knowledge, you would be chosen to assist with various things. There was quite a few meetings I was involved in after that, sometimes through just the fact that I could work the equipment, sometimes through the fact that, from the CCTV point of view, I don't think there was anybody else in PIRC that had actually examined it as much as I had over that couple of years – literally weeks and months – in terms of that, both in analysing it and reviewing it constantly.

149. So, I was at several meetings involving Crown Office and Procurator Fiscal Service and other specialists, other experts, sometimes because I could work the equipment, sometimes to speak about something that may have been in the CCTV. I would only go to a meeting if I was instructed or invited to the meeting. I wouldn't make a point of inviting myself to a meeting. That would never be done. I would only be at a meeting at either the behest of Billy Little or somebody senior to Billy or, indeed, a Procurator Fiscal representative, and that included when Billy and I took the productions to the fiscal service as well, which in itself was a full day.

**Investigation overall**

150. I have been asked if I had any involvement in writing the PIRC report that was submitted to COPFS on 10 August 2016. No.

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151. I have been asked what roles Irene Scullion (Head of Investigations), John Mitchell (Director of Investigations) and Kate Frame (Commissioner) played in the management of the investigation. It's above my pay grade - that would be the first thing I would say there. Nothing left PIRC, as I understand it, that would not have been okayed by the Commissioner – in terms of publication or statement or comment – because ultimately the Commissioner is PIRC, and every report is done in the Commissioner's signature, not in the author's signature. So, from that standpoint, then everybody from the Commissioner down, and from the DSI up, should have an understanding of everything that has been done and that's not just for the Sheku Bayoh investigation. That's for the M9, that's for the shooting in Glasgow, that's for all of these. Any deaths in custody, any fatal road collisions involving the police, they would all have a certain handle on that.

152. I have been asked who at PIRC was ultimately responsible for the investigation. Well, the Commissioner is PIRC. Ultimately, the Commissioner can instruct anybody within PIRC on how she wishes the investigation to go. So ultimately, they would rely on the expertise of, in particular, John Mitchell, who was an ex-detective chief superintendent; John McSparran, an ex-detective superintendent; and others, Keith, Billy. She would rely on their operational experience, but ultimately the Commissioner has the Commissioner's job because, one, she's never been in the police, and two, she has her own skills base that allows her to complete that role. So, in other words, the inquiry is in her name and will always be her inquiry, but, like every other part of civil service or the public services, you would delegate responsibility in certain things, but ultimately you carry the responsibility. Unless somebody can tell me different to that, that's my understanding of how it works.

153. I have been asked if I have any comments as to the support and direction that I received from colleagues at PIRC, including colleagues in positions senior to me, throughout the investigation. Bearing in the mind even senior colleagues in PIRC

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would have the same rank as me in the police, some of them. There has to be a structure, a rank structure, so, if we were talking road policing, for instance, I would have more experience and skill than everybody, from the Commissioner down right to the person above me. That's why I'm saying you would delegate those responsibilities to the person most suited to that skill. However, that doesn't absolve you of the responsibility to oversee that and manage it, and to me that's perfectly right and proper. I would not always agree with some decisions made above me, but my position was an investigator. They would then need to justify their decision-making on that. I would have to justify my decision-making and anything like that, but any supervisor, line manager, worth their salt uses the experience at their disposal of the people that work for them. How they choose to use that is up to them. They would be wise to take account of it, but ultimately they may decide that they would go a different route. Did I receive their support? Yes, I don't see where I didn't receive their support. There was times we would argue over a thing. I'm not talking just in this inquiry. We would argue over things, but because you're an investigator doesn't leave you without a voice. You're able to give your opinion, and these briefings were for exactly that. I would always defer to somebody who had better experience in certain areas, even in policing, than I did. But that's the art of having all these skills bases at your disposal.

**Record keeping**

154. I have been asked how I took notes during the investigation. PIRC, like every other public body, has a retention policy, SOP, so any items that would be disposed of would be through that system. Generally, I would say that, in terms of inquiries of a death, I wouldn't have thought that it would have been too much - or anything for that matter - would have been disposed of. As far as the notebook's concerned, I never maintained a notebook. I was issued with a notebook, but there was no requirement for me to maintain a notebook. My notes would be in the shape of the tasks that I was actioned. The task would be completed and I, then, would update Clue to that effect. Clue has the ability for

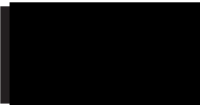
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you to put notes in it, and I would often submit notes in terms of any statement that I was taking, in terms of, "Was I struggling to get the statement? Was there hardship in the statement itself?" reminders of what I would need to ask, but that's where I would put my note system. When I would be writing my own self-statement, I would go into Clue and say, "Print me everything" or "Bring up everything that I would have dealt with in this particular inquiry." No matter what that inquiry is, it would show me a list of things, and I can make my statement up from that. Clue is the integral part of the tasking and coordinating process.

**Equality and diversity**

155. I have been asked how diverse PIRC was as an organisation in 2015 for example, by way of race, gender, age, background. I don't know that I've got a great amount of comment to make on that, to be honest. I think you would need to go back to the fact that Police Scotland was put together in a very quick fashion and it therefore followed that, because eight forces became one, and a police force can't investigate itself, that if that decision is late in coming along the line, then the decision for the oversight body then has to be behind that and behind the curveball. So, from that perspective, they obviously had the old office of the Commissioner, which then just developed into PIRC.

156. I think that PIRC, in its infancy, had to take on ex-police, so from a diversity point of police to non-police, I think it would have been unrealistic to even have a half-and-half or a majority of non-police. To me, that would have been a non-starter. An example of that is the non-police, from my experience, some of the trainees and some investigators that were taken on, struggled with writing a statement. Now, that's because they weren't ever subject to taking a statement, so realistically it had to be ex-police officers. Male/female? I really wouldn't like to make a comment on that. The bottom line is, advertisements went out for those positions and everybody had the opportunity to apply for that: male, female, police, non-police. I was not in PIRC at the time, as I've said. I was approached

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by PIRC because of my skills and the fact I was coming to the end of my service, that was probably an unusual step. I had the skills and they were identifying skills that were required that they were maybe lacking in at that point. Again, you take the person that's available: male, female, police, non-police. Then, beyond that, race: that's really a subject that's way beyond my pay grade. The bottom line is, that's something that you would need to speak to the Commissioner about, in my opinion. I never felt that we were lacking in the ability to investigate anything through race.

157. I have been asked who was responsible for diversity and inclusion matters at PIRC in 2015. The Commissioner, ultimately. Beyond that, several people gave training within PIRC, so that's maybe a question best placed to them.

**Race**

158. I have been asked if anything I did or did not do was due to Mr Bayoh's race. I don't think I'm in a position to answer that, to be honest, but as I've said, I would be tasked with going and taking statements or seizing productions or whatever. I never, ever considered that. I just went and did the tasks that I was asked to do.

159. I have been asked at what point in the investigation I became conscious of the issue of race as something for PIRC to investigate. As I said, I think something tells me, maybe about September, that that became an instruction from the Crown Office. I should clarify that. I'm assuming that's where that instruction came from. There would be general discussion that the terms of reference, or the terms of investigation, would have been modified, altered, changed. I'm sure that would have been relayed to us by, I would think, John McSporran.

160. I have been asked, prior to 3 May 2015, if I had any experience of investigations of deaths in custody or deaths following police contact in which the deceased was someone from an ethnic minority. I don't recall. I don't think so.

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161. I have been asked, prior to 3 May 2015, if I had any experience of an investigation into a death in custody or death following police contact in which race was a factor to investigate. Not that I recall. I don't think so.

162. I have been asked if following this investigation I ever acted in a PIRC investigation in which the issue of race was within the terms of instruction. Again, I don't recall any. There may have been, but I certainly don't recall.

163. I have been asked if, when PIRC's terms of reference were expanded by COPFS to include issues of race, I had any involvement in this aspect of PIRC's investigation. No. Again, that would be decisions made at a higher level. I don't recall anything specifically from that question that I could put to my own actions. I don't think so.

164. I have been asked if, before the instruction from COPFS, anyone at PIRC gave consideration to race being a factor in the incident. Again, that decision-making would have occurred in meetings of management, not at my level.

165. I have been asked if, during my time at PIRC, I received any training in relation to investigating race being a factor in an incident. I don't recall specific training. There may have been. Again, my training record will be available. The specifics of what was in the training, I don't fully recall.

166. I have been asked if I think PIRC were sufficiently equipped to investigate issues of race relating to deaths in police custody or deaths following police contact on 3 May 2015. In 2015? Even now, I don't have a great answer for that, to be honest with you. Probably not, would be my answer to that. I'm not saying that flimsily or otherwise. I think I'll probably just stay with "probably not." There could have been improvement in that.

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167. I have been asked, with particular reference to the issue of race, if there is there anything that, knowing what I know now, I would have done differently. No. Again, if I take you back to where my position in PIRC was, it was to basically take the tasks, the actions, and carry those out. If I had been asked to interpret certain aspects or otherwise, and that was in my task, then I would have responded to that as best I could, but it would have been, at my level, generated through the tasks that I were given. I wouldn't create any of the policy around that.

**Miscellaneous**

168. I completed two PIRC statements covering my involvement in the investigation (PIRC-00324 and PIRC-00325). I have been asked if the content of these statements be true and accurate. Yes. I would bring up Clue and every individual thing I would take and Clue would identify everything that I did. I would pull that together for my statement. That may mean that I would go and look at a production, make sure I was getting something right in a production, but if I was doing Clue right, everything should be there.

169. I have been asked about certain PIRC self-statements where investigators who were at the same briefing using very similar wording. I think it would be fair to say and honest to say there would be police terminology in the statement writing as well. After 30 years you have a certain style of writing statements that comes from that police terminology. In terms of the statement in PIRC and from Clue, you'll see from my statement it was, "I took a statement accompanied by-" or "An investigator took a statement accompanied by me." The content of that statement is not in my statement, it's in their statement, the reference being, "Go and look at their statement." If I took a production, I labelled the production, I lodged a production, I referred to the production. If you want to see the production, what it is, you need to go and take the production and look at it. If I'm asked to analyse a production, that would be different. I would then give an analytical summary of what I was asked to do, specifically in the CCTV. But, again, there would be a

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document produced which would be lodged as a production, referred to in my main statement. That's the document you would need to go and look at.

170. I have been asked if my recollection when I completed these self-statements was better then than it is currently. (PIRC-00324 and PIRC-00325). Definitely.

171. I have been asked if I have followed the Inquiry at all or followed media reporting about the Inquiry. No.

172. I have been asked if, knowing what I know now, is there anything I feel PIRC ought to have done differently within this investigation. It's very evident to me – and I don't want to speak out of turn or beyond my knowledge here – that race has become a major part of it. In the early part of this investigation, to me, the investigation was about a death in custody or during a person being arrested. The race part came in September. I don't know how I recall that but in September. So, from that perspective, it appears to me very much that race is becoming the main topic, so should the investigation have centred on that? I don't know. That's what it would appear to be where it's heading towards but, again, I would have to state it from a personal point of view, that's something that is for a higher pay grade than mine. I couldn't say further than that. I think it would be unfair to me

Signature of Witness.  .....

to make comment on behalf of the senior management of PIRC, or Police Scotland for that matter, when it's really not my responsibility.

173. I have been asked if, knowing what I know now, is there anything I would do differently within this investigation. No. My main task would be to take a statement, seize a production, analyse evidence, act under instruction. That's not, "I was only following orders." Specifically, as an investigator, the system is designed; that's your task, to go and do something, and you go and do it. I'm not just speaking about this inquiry; if I had any specifics about either I wasn't or I was concerned about what I was being asked to do, or I felt I should be doing this, that or the other, I would raise that at the time of the action, and I would get a response. I would receive an instruction, "That's what we want you to do" or sometimes, specifically with road policing, I would say, "Listen, have you considered this? Because this is the way it works" and they would go, "Oh, right. Didn't realise that. Okay, you do what you think." Other than that, I would follow instruction and complete the task. If I had concerns, I would raise them pre completing the task or even going to do the task, and I would expect to be instructed on that.

174. I have been asked if there is anything else, that is relevant to the Inquiry's Terms of Reference that I would like to include in my Inquiry statement. No.

175. 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 

January 18, 2024 | 11:21 AM GMT

Date.....