



The Sheku Bayoh Public Inquiry

Witness Statement

John Clerkin

**Taken by [REDACTED] by MS Teams
on 26 September and 6 October 2023**

Witness details

1. My full name is John Clerkin. My date of birth is in 1966. My contact details are known to the Inquiry.

Professional Career

2. I joined the Police Investigation & Review Commissioner (PIRC) in March 2013, and I left in January 2018, at which point in time I then joined the Garda Síochána Ombudsman Commission (GSOC) in the Republic of Ireland as an Investigator. In addition, when with GSOC, I later held the position of Acting Senior Investigation Officer (SIO) in Cork City.

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3. Previously to joining the Police Investigation & Review Commissioner, I had completed approximately 10 years with the Police Ombudsman's Office for Northern Ireland (PONI). I held various roles within that organisation as an Investigator and a Deputy Senior Investigating Officer. Then a short stint after that with Avon and Somerset Constabulary, where I was a Temporary Inspector heading up an investigations team in support of CID. That was immediately before I joined the Police Investigation & Review Commissioner's Office. I had previously, to all of this, been a police officer in the Royal Ulster Constabulary, which is now the Police Service of Northern Ireland. I had left my role as a police officer in September 2001, having served from 1996 to 2001.

4. I have been asked if, when working as a police officer in the Royal Ulster Constabulary, I acted as a Family Liaison Officer (FLO) at any point. No, not at all. I was involved in matters other than family liaison. I was for most of my service based down at the border (the border between Northern Ireland and the Republic of Ireland), basically on joint military and police patrols for most of the time, anti-terrorism duties, that type of thing.

5. I have since qualified as a Family Liaison Coordinator and, presently, I hold the position of Family Liaison Coordinator, again, at the Police Ombudsman's Office for NI - I re-joined PONI in May 2021. I primarily deal with critical incidents because I'm a member of the Significant Cases Investigation Team. We deal with: - deaths following police contact; deaths in police custody; fatal shootings. I coordinate the strategies of FLOs who work for the organisation. That's one of my current roles.

Training

6. I have been shown my PIRC application form which reflects that before joining PIRC I had undertaken a certificate in diversity awareness (PIRC-04209) - I am asked if I have any recollection of this training. Yes, I recall that, and I have since

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undertaken refresher training. In respect of family liaison, I underwent training as a Family Liaison Officer when I was based at the Police Ombudsman's office between 2001 and 2010, and I was deployed in various situations whereby input from a trained FLO was required.

7. I have been asked what I can recall about the training I received before I joined PIRC. One of the FLC course that I undertook was a 10-day course, which was delivered by [REDACTED], who had been the FLO Adviser for the Hillsborough Disaster and he also had significant input in respect of the Tsunami Disaster – clearly an experienced individual. He had run the course, and this course was accredited by Policing Standards (National Policing Improvement Agency). At the time, we were all issued with a certificate. It was an intensive course. There were practical elements to it - there were simulated scenarios set up where we would be dealing with a family in the aftermath of a fatality. I think the original example was a death in custody and, how you managed that family, how you recorded their information, how you revealed that information, retained and disclosed it. Those were issues that were apparent, and likely everything consistent with the existing FLO policies that were in place at the time and how to deal with legal professionals' requests for information, how to disengage with the family, for example. It dealt with all aspects of family liaison management, risk and deployment.

8. I have been shown my PIRC training record which reflects that I took part in a GSOC - Family Liaison Development Day in October 2013 (PIRC-04577). I have been asked what I can recall about this. There was a certificate issued in respect of this. It was refresher training as opposed to introductory or intermediate. It was aimed at persons who were already established in a role as FLOs, and what differentiated that from previous FLO courses was that it incorporated new thinking, best practice at the time.

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9. There had been previous training, as I've alluded to and, equally, there had been innumerable deployments in Northern Ireland. Some of it was at the very high-end, including fatal shootings by police, deaths in custody and, a lot of focus on community impact strategy, given the risks that are apparent in Northern Ireland that don't apply perhaps to the same extent in the rest of the UK and Ireland. I've certainly over a period of time done refresher training and had significant involvement within Northern Ireland in officer training and FLO deployment.

10. I have been asked about the training I received at PIRC in relation to diversity and unconscious bias. There has been similar-type online trainings I've undertaken both in the Garda Síochána Ombudsman Commission and, now that I've been back with the Police Ombudsman for the last two and a half years, in Belfast. Diversity issues and defining unconscious bias. There were matters about perceived injustice, perceived discrimination, what that would amount to, practical examples of how people can inadvertently be discriminatory towards individuals unbeknownst to themselves. I suppose the focus of the course championed how to avoid those types of scenarios occurring: what language to use in terms of your communication verbally and in writing with staff members, colleagues, members of the public, stakeholders in general, and basically how to go about ensuring that the appropriate checks are carried out to ensure the avoidance of causing distress, discrimination towards various groups within society and various individuals and how they define themselves and identify and so on.

11. I have been asked about training I received while at PIRC focused specifically at the investigatory side of my role. There was a significant period of time spent at St James House which, if I remember correctly, was the first place the PIRC operated from. Time was devoted to setting up the office and providing input, for example: - in respect of Scots Law, investigative procedures, deployments, interviewing skills, basically the remit of what is required in terms of conducting oversight investigations. This training was fairly similar to what would be provided

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to supervisory officers within policing, it dealt with how a major incident rooms would run, how staff would operate during investigations or how they would be facilitated, how they would be contacted, how they would report to senior management, etc.

12. PIRC covered the whole raft of policies and issues in respect of how the job would be carried out. There was a sufficiency of information provided, input from the Head of Investigations and the Senior Investigators. Induction was also devoted to visiting some police establishments in order to familiarise some of the staff with various locations, I think in the Central Belt mostly, how to deal with the Procurator Fiscal, for example, which was different from the arrangement with police in the rest of the UK and so on. There definitely was a sufficiency of time devoted to explaining it or defining the role, and teasing with any uncertainties as well as to how you would undertake work. That's quite general, but that's the essence of how things were managed and delivered.

13. I have been asked if, while at PIRC, I attended any seminars that were run by Police Scotland. Basically, everything that we did tended to have input from Police Scotland. I can't give specific dates and times. I was a bit of an exception in the sense that most of the staff had come from Strathclyde Police and there were some staff, including myself, that come from out-with Scottish policing in general, and clearly the senior management team have a lot of contacts within Police Scotland and were not averse to requesting someone to come and provide input on a specialist topic. An example of this, for example, might be a firearms deployment, non-conventional firearms, CS and PAVA spray. I had the responsibility for dealing with the referrals but, to facilitate that, I spoke to a lot of senior staff at Tulliallan, the police training college. For example, a Memorandum of Understanding was implemented as to how issues would be referred to PIRC. At that point, police staff were certainly very facilitatory in regard to how that was brought about.

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14. I have been asked if I felt adequately trained and experienced to carry out the role of investigator and the role of FLO as at 3 May 2015. Yes, very much so, there were regular reviews. There was an expectation at PIRC that if there was any uncertainty about how you were undertaking a task or action that you could discuss that. At the morning briefings - every day at the commencement of work there was an SI briefing and in respect of any concerns or matters, which required further clarification. Staff were encouraged to speak out and matters of concern were teased out by the senior staff. The Head of Investigations, for example (people like John Mitchell) was in attendance; John McSporran, who was one of the SIOs, and SIO Ricky Casey were present as well. They were very proactive in that regard and, it was very much the case that if you didn't volunteer information, they would not have been averse to asking what had occurred and would have required quite a detailed insight into what had taken place in the previous day. I remember there being a lot of involvement of that nature.

Distinction between Police Scotland PIRC

15. I have been asked if there is any difference between being an investigator in PIRC, and investigating in a police officer role. There would have been clearly differences between how police operated in Northern Ireland, which is where I served as a police officer, and how civilian and oversight investigators would operate within Scotland, and there would be differences between how you operated in civilian oversight role by comparison to how things were conducted within policing. One of the key differences is probably that you weren't necessarily a first responder. What I mean by this is that in regard to being a FLO, there would have been a handover routinely required when you were engaged with the appointed FLO incumbents in-post within policing. We'd have an insight and would have had information provided to us, salient points in relation to the nature of the incident, information about the dynamic of the family, information about any perceived hostilities.

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16. So, you would have been, as an oversight investigator, armed with that type of information in engagement with members of the public or with the victims. If it was a FLO deployment, for example, with relatives of the deceased, which to some extent was advantageous and to some degree created problems, because sometimes the response given to police by members of the public is very different from the response provided by oversight bodies, and there are political/socioeconomic reasons to maybe why that's the case. There were differences in that regard. You weren't necessarily a first responder. You weren't armed with a firearm. You didn't have Article 2 considerations to take into account, the potential threat to life, that you would have as a police officer in Northern Ireland, but there tended to be liaison not only between the strategics within Police Scotland and within PIRC, but also even at sort of middle management level and well before engagement with the public. We weren't really first responder at PIRC and that was a key difference. You had other material to refer to before engagement. I think that's the big difference.
17. I have been asked if I can explain what I mean when I say that the public or the family might engage differently with you as an oversight body as compared to you as a police officer. Alistair Lewis was the co-appointed FLO along with myself in respect of this investigation. Regarding this referral, before we engaged with the family, there had been engagement by Chief Superintendent McEwan and Chief Inspector Nicola Shepherd, who I took a statement from at some point in time. They, in my opinion, had gone into an environment that was very hostile and tensions ran very high. Clearly the finger of blame was being pointed at Police Scotland, and the family had a lot of anxiety and hostility, displayed by the family and the extended family, and associates of the family, towards Police Scotland.
18. One of the things I do recall was that when Alistair Lewis and I visited the property of Sheku's brother, where the family had amassed, they initially thought that I was a senior police officer. There was a lot of initial hostility displayed towards me if I remember correctly and it was quite a challenge to explain to the family who we

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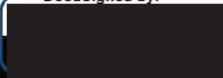
were and, equally, it was a challenge in itself to get them to afford us the opportunity to try and explain our detachment from Police Scotland and our role as investigators.

19. When it became apparent to them and - I suppose this is the key point I'm trying to make - that we were from an oversight body, the mood substantially changed and we were able to engage more purposefully with the people that were present there. I remember Sheku's sister was there. Ade Johnson, his brother-in-law, was there, who was very vocal at the time and very animated and upset. There were people there that wanted answers to questions, and I think the problem had been that maybe Chief Superintendent McEwan and - I don't know whether Nicola Shepherd had spoken at length or not - but there was a dissatisfaction with how that engagement had gone and that influenced how they responded to us.

20. I have been asked if before 3 May 2015 I had any contact with or knowledge of the nine Police Scotland officers who attended Hayfield Road. I recall their names, but it has to be stated, only as a result of the referral in respect of Sheku. To the best of my knowledge, I had had no interaction or investigated any matters involving any of those people prior to the referral in relation to Sheku.


21. There were nine principal officers in this matter who had initially declined to provide statements. It was eventually agreed that they would provide statements and be interviewed at Tulliallan, the police training college. Alistair and I were appointed as liaison officers because of our FLO role. I don't recall interviewing any of the nine officers, or taking a statement from them, and that would be consistent with FLO deployments that we engaged in that capacity. There could be potential inference about the quality of the investigation. The integrity of the investigation could be called into question if that were to have been the case.

22. I have been asked if I, before 3 May 2015, had any contact with or knowledge of any of the Police Scotland officers that I encountered in the course of the PIRC

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investigation. It was mostly commissioned officers that I had dealings with if I remember correctly. I did liaise with Chief Inspector Trickett, Nicola Shepherd, from memory, and I do remember a meeting with senior officers, including an Assistant Chief Constable, in the golden hours almost of the referral. Alastair and I both attended that but, primarily, I didn't have a great deal of, if any, engagement with the officers. It was family members rather of Sheku and some senior officers in regard to the PIM process, the post-incident management, engagement with Police Scotland and procedures that Police Scotland put in place with their nine officers. I think Chief Inspector Trickett, who was based at Aberdeen, he was the person who had managed that, and I took the initial, perhaps, two statements from Chief Inspector Trickett. Equally, Nicola Shepherd, Chief Inspector as well, had been involved with engaging with the family along with Chief Superintendent McEwan. I took a statement from her. One of the things I do recall about that was asking her to try and recall questions and demands being made of her by family members, early doors, in the aftermath of it being reported that Sheku had died, which she provided evidence in relation to. I don't really recall much other than that in terms of police officers, aside from maybe some information around PAVA and CS spray. There was the suggestion that Sheku had been sprayed with PAVA or CS, so we had to get information from OST in respect of that. I can't remember the sergeant's name but, a chief inspector I think facilitated that process, and provided relevant documentation which was exhibited. I can't remember much else.

23. I have been asked if, as at 3 May 2015, I was aware of any policy or guidance for PIRC staff who came across a Police Scotland officer that were acquainted with personally or professionally. There wasn't a unique PIRC policy, a similar policy applied both in policing and in the Police Ombudsman's Office in Northern Ireland. If there was anything that could potentially question the integrity, independence, autonomy of the investigation, there was a requirement that that be reported and made known to senior management so a decision could be taken. If there was any previous contact between yourself, be it socially or be it professionally, that

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would be declared in fear that that may constitute a conflict of interest which might lead to collapse at trial. So, that wasn't something that applied to myself, and the advantage was that I had never worked in Police Scotland or for Strathclyde. I'd been a police officer in Northern Ireland. There have been situations where I had known people and have worked with them professionally in Northern Ireland. The demographic is much smaller in Northern Ireland by comparison to Scotland, so the likelihood is greater. I know that there were reporting procedures and a policy in place to cater for any potential conflicts in Scotland, that I referred to earlier, regarding the induction procedures at St James House in Paisley. I do have some recollection of that being addressed at that time as well.

Role at PIRC

- 24. I have been asked if, in addition to being a FLO and investigator, I held any other roles within PIRC. The only specialist role that I held, other than general investigative duties, was responsibility for dealing with firearms referrals. Perhaps the thinking behind was my background in firearms - all officers are routinely armed in Northern Ireland - and would have experience of those types of matters. Fortunately, in the context of Scotland, the use of conventional firearms isn't a routine thing, whereas it is more routine in Northern Ireland.

- 25. Non-conventional firearms would be more the focus - that is PAVA spray and CS spray. I basically dealt with all the referrals and made appropriate checks about any outstanding matters in Police Scotland, that hadn't been referred by way of the agreed procedures. This required the checking of serial logs and so on, Use of Force Forms where it hadn't been formally reported as a CS spray. My role was to make assessments of PAVA/CS spray incidents and make a determination as to whether these matters should be investigated - if I felt there were any shortcomings, in terms of how police had dealt with any events where PAVA or CS had been used. PAVA replaced CS by and large. The thinking was that CS usage had resulted in too many "own goals" where officers had got contaminated,

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so I think PAVA became the preferred choice. I can't remember the actual date for that but, I was involved in that and drew up the Memorandum of Understanding with Police Scotland in relation to how those matters would be deployed and what information was required from the officers who had discharged the PAVA, in order for an appropriate assessment to be made. That was aside from general duties and FLO duties.

26. I have been asked when this Memorandum of Understanding was drawn up. In relation to the firearms matter, this is something which was addressed quite early on in my time within the organisation. It wasn't formalised at the outset. I don't remember the dates, but an incident that took place in the aftermath of a football tie at Celtic Park that involved British Transport Police, and the subject officer who had taken responsibility for the discharge had been involved in a similar type of incident the evening before on the concourse of Central Station in Glasgow. The belief was that the officer had been a wee bit hasty in terms of deployment of the CS or the PAVA and, that coincided with the thinking "We maybe need to speed up the process here and get something in place which is agreed that will prevent further encounters of this nature." I can't remember the date, but I've got a belief that the tie was between Ajax Amsterdam and Celtic. It was in the weeks after that, that we really stepped-up engagement, not only BTP, but with Police Scotland, and they came aboard in relation to the need to fast track this. So it was within a relatively short period, I'm guessing 2015, early months, before Sheku.



27. I have been asked to explain how my role as an investigator fit into the work of the investigatory team generally. It was very much encouraged by senior management that engagement with them be the norm rather than the exception. John Mitchell operated an open-door policy. You certainly knew he was the boss – but he was he was very approachable. The other Senior Investigators, John McSporran, Ricky Casey, and Markus Mitterer, I'd go so far as to say that they were all very approachable and operated an open-door policy and continually

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reviewed matters, recorded from those reviews, and provided necessary input to the staff based on what they'd forwarded back to them. The expectation was that this be the case, and that was throughout my time there. Any uncertainties or any matters that were grey areas, it was always followed up on and that was always addressed. The Commissioner, Kate Frame, would also have attended briefings – not every day, but at least on a weekly basis. Equally, she would expect staff to be able to appraise her of developments, certainly of any key issues in the days/weeks that had preceded her attendance. I've never seen engagement from senior management like it elsewhere. Let's put it like that.

28. At PIRC, we all worked under the same roof and I sat pretty close to John Mitchell's office and John Mitchell operated very much an open-door policy. He was a very approachable boss, very knowledgeable, and I think the staff, by and large, have respect for the senior management and were very keen to make the appropriate efforts to steer these matters in the right direction.

29. I have been asked how investigatory steps, such as taking a statement, would be tasked. The management of this case I would say operated very similarly to the way a Major Incident Team operated within policing. There were folks that had appointed roles. There was a "receiver" in old money - they don't call them "receivers" anymore. There would have been an action allocator, an office manager, etc. There were appointed FLOs. There were people who took responsibility for scene management - John Ferguson, he was a very experienced Scene Manager. Everybody had an appointed role with the team, and it worked on a task/action basis. They were given a clear instruction of what was required. There was also an indication given in which there was an expectation for completion of that job. There was the facility always that if there was an uncertainty, you would flag that up in advance rather than have something that would have been incomplete, you'd have clarified it. But usually the instructions were clear, the parameters of time were clear, and it was always incumbent on staff to ensure that they work with somebody else as well, as it's

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the best practice within the MIT. I have to say I thought it was very well run, well managed, and experienced staff were able to attend to those things.

Family Liaison at PIRC

- 30. I have been asked appropriately what proportion of my working time would have been spent acting as an investigator and what portion of time was doing FLO tasks. I can't really differentiate the two, to be honest, because at the end of the day, as per any FLO policy in any organisation, the FLO is an investigative role. I mean, there's always a bit of an idea that you were a tree-hugger and so on, but that's just locker speak - it is an investigative role. Your task is to elicit information and to gather evidence from the families, the associates of the victim, anything that is gathered it has to be retained, clearly it has to be disclosed at a point in time as well.

- 31. It's incumbent on any FLO to be foremost an investigator. A FLO is a type of investigator that maybe has a specific skillset and tends to be involved in the investigation with people who are particularly vulnerable because they've clearly underwent some severe trauma. They've suffered a bereavement and that is the worst thing that can happen in anybody's life, so it'd be in step with what is required in circumstances like that. My focus in this case was the FLO role, but there were other interactions - and I've alluded to some of them - with OCT, in relation to the PAVA deployment, the PIM-related issues with Mr Trickett, equally matters concerning engagement with the family, briefings that were carried out with officers within Police Scotland, I think with Nicola Shepherd.

- 32. There were investigative tasks that run in tandem with the FLO work, but I always saw the FLO role as an investigative role, which is what it is at the end of the day, so I didn't really make the distinction. You should be an accredited or qualified investigator in order to be able to take a statement from the family. There was a need to have rapport that you build up with people and the requirement to engage

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with them and to be sympathetic and empathetic, but I would say that a lot of those skills apply in any circumstance when you're dealing with members of the public, or police officers for that matter. That was very labour intensive. I think from a FLO perspective it was fairly labour intensive, certainly at early doors, from my point of view, during the early days or in the weeks that followed on from Sheku's death. So, I was very much as a FLO then, I suppose, as opposed to a standard investigator.

33. I have been asked if I was a Family Liaison Coordinator (FLC) when I was working at PIRC. No, I was not a co-ordinator. I did take responsibility for that at times. I was the incumbent FLC for a period of time when I was at PIRC. Alistair Lewis I think took responsibility for that as well for a period of time also. The role shifted around, I think it was to give people opportunity and experience in role and really what it required was to convene a meeting - I think on a monthly basis - with the FLOs. The meeting was to tease out any uncertainties, to deal with any confusions that folks were having in the role, perhaps as well to ensure that nobody was being over-deployed, which can be a problem sometimes, especially in a relatively small organisation. Best practice in FLO terms would necessitate that you're not involved in innumerable FLO deployments at once, because that can be a stressful role when you're dealing with vulnerable people. So to ensure prevention of that, but it was only on a temporary basis initially. I've got some recollection that Alistair Lewis may have taken on a substantial role in terms of that in the time that he was there.

34. The FLC organised meetings were held out-with the offices. We tended to book a room at one of the local golf clubs for them. One of the staff members I think knew someone. It was a step out of the normal environment, which again was taken so that people would feel more relaxed and maybe more informed about what it was that they wanted to say, or what they wanted to be dealt with. I have been asked if these meetings were minuted. I do believe that they were. I can't quote specific examples of that. It was an embellishment to say that they were on

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a monthly basis, I don't think they were monthly. They were quarterly perhaps, which was deemed sufficient. I remember certainly on a number of occasions we all met, and notes would have been taken. I can't remember if someone was specifically tasked to take the notes, but I know that we would have sat down, certainly as a team of FLOs. I can't say for definite about the minutes, but given the dynamic within the organisation, I would be very surprised if information about what arose and was discussed, if that wasn't recorded and fed back to senior management. It most definitely would have been.

35. I have been asked approximately how many people at PIRC at that time were FLO-trained. I can only give an approximation. I would say there might have been seven or eight people at a push. There were people that had clearly come in and had been FLOs within Strathclyde Police. I think there were some staff as well, Laura White being one of them, she wasn't from a policing background, as an example, but I believe that Laura had requested training as a FLO and had received it. She wasn't deployed as a FLO in her own right originally, but she shadowed the senior FLO or the co-FLO. I can remember that she shadowed me, not on this job but on another fatality matter before she was given a task as a FLO in her own right, so that was to familiarise her with how maybe someone with that bit more experience dealt with the members of the public, how they went about taking the statement, what assurances they gave to the family in terms of when they would be updated, how they would be updated.

36. It's been a while and I can't really remember who was round the table. I think Kevin Rooney was one of the staff members. I think Kevin Rooney had been a fire chief and would carry out FLO-related responsibilities within Scottish Fire and Rescue. He might have been the one actually with the connection to the golf club and that's why the meetings were there, but there were certainly upward of half a dozen people at those meetings and they would have been at least on a quarterly basis.

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37. I have been asked if, at these meetings or in addition to these meetings, there was anything done at PIRC to record lessons learned after a deployment. One of the difficulties with FLO deployments in any organisation is that senior management don't have one job to manage, they've got innumerable jobs with innumerable deployments. I do remember there was a database that listed which FLOs were deployed in which jobs. There was an expectation on the individual appointed FLOs to update this database on a fairly regular basis to explain and provide insight as to where they were with a job, if they'd taken statements from family members, and whether the matter was still live. Equally, it would be incumbent on the FLOs as well to state that they had disengaged, obviously with the consent/approval of a senior investigator, so we would know that that case was no longer live from a FLO perspective.
38. I think the purpose of this was so that a Senior Investigator, even when they were outwith the office, could look at the deployments and could say, "Well, John Clerkin is employed or deployed on these jobs." Ross Stewart, who was another FLO, was employed on X number of jobs and here's the stage that Ross is at, same would apply to Alistair, Kevin Lewis, etc. I don't know whether that was continued or not, but I know that it was in situ for a period, and I remember putting information onto it myself. I think the period up to this tenure as coordinator, I think it was incumbent on me to ensure that people inputted that and populated that appropriately and so on. How well I did that, I can't say, but certainly there was an expectation that that be done. That may have been improved and made a more streamlined process, but that was in place certainly for a period.
39. I am asked how FLOs were assigned by PIRC - if it was based on availability, any specialism, or any other factor. I know there was discussion clearly in relation to Sheku's family. I remember the engagement with Chief Inspector Shepherd, whereby she had recorded that there was an expectation that Chief Superintendent McEwan addressed the family and not herself because she was female. That's not my view, but that's what was quoted at the time. So, there

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would have been a focus from the outset which would have been policyed up by the SIs in the case. If there were any special needs, religious or cultural beliefs which became apparent, as an investigative team which had been deployed, we were expected to address those matters and as best as possible familiarise ourselves with the requirements of the deployment in view of those cultural/religious issues, for example.

- 40. I haven't seen this, but I would be very surprised if that wasn't policyed up by the likes of John McSparran or Ricky Casey. Definitely there would have been a focus on that. Having done the job myself, certainly since I've moved on from PIRC, that would have been something which would have been very much part and parcel of my briefing and SI log and what other staff would have been briefed and appraised of in relation to deployment and so on. It definitely would have been something which was considered, and I can think of incidents where that would have been the case. This would have been no exception.

Supervision

- 41. I have been asked who my line manager was at PIRC and how supervision took place. It changed during the time that I was there. My immediate line manager when I started was Margaret Headrick who had come in from Trading Standards - she wasn't from a police background. It was John Ferguson, who was the scene manager and myself that worked with her. I think a lot of the time Maggie would have sought our support in terms of things. We'd both come from policing backgrounds, and I think she would have been reliant maybe as much on us as we were on her as a manager, to keep things matters on the go while ensuring that things were progressed. Because of the expansion of the organisation and the addition of further staff, including trainee staff, in due course things changed and my direct manager became Ian MacIntyre. I worked with Ian MacIntyre, it was myself and another chap, William Davison and I think Garry Sinclair had come in for a period of time, so the four of us worked as a unit on them. There

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again, Ian had come from a policing background, but equally I think he was relying on our support a lot of the time as well. We worked as a team and although Ian was the recognised member in charge, he would have been very inclusive in terms of how he made his decisions and so on and would have sought our input.

- 42. My overall manager for most of the time that I was there was an Austrian gentleman, Markus Mitterer. I think that Markus had a bit of difficulty understanding some of the people from Scotland and an advantage in him being my manager was that he could understand me rather better than them and asked me sometimes to maybe appraise him of what had been said. I would have worked a lot with Markus and Markus would have worked a lot on the firearms referrals. He had been a senior officer at a NATO detachment in Kosovo and had a lot of involvement with firearms. Markus would have been my SIO for the majority of the time that I was there.

Experience as a FLO

- 43. I have been asked, as at May 2015, how many times I had acted as a FLO and was deployed as a FLO within PIRC. Probably at the very most - no more than five times. I think the reason for that is because of the nature of the work that PIRC does. There wasn't, for example, a core body of complaints in my time. I can remember details of two or three, which were all within the Central Belt that I dealt with, that were labour intensive in terms of the input with the families. One of the things I think that complicated cases was when there were many family members, rather than there being just one nominated single point of contact (SPOC). I think I would have probably taken on, at my time there, no more than five deployments, but they would have been quite rigorous in terms of the degree of input and involvement that was required.

- 44. In the case of Sheku, it was a co-deployment, it was Alistair and myself. Alistair had a lot of experience, he had been a Police Scotland traffic supervisor, he had

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a lot of involvement with dealing with fatalities and was very experienced in the role. The powers that be were minded to appoint two of us. The only previous occasions I remember working as a co-deployed FLO was in with Laura White - I would have taken the lead and that was part of her familiarisation as a FLO.

- 45. I have been asked if my other PIRC deployments as FLO concerned deaths in police custody or deaths shortly after contact with the police. Yes, all of them would have been. They would have been not necessarily whilst in custody but following police contact.

- 46. I have been asked if, when meeting a family for the first time, if there were any legal rights that I would seek to make them aware of. There would have been. However, the thing that I do remember emphasising, probably more than legalities, as that wasn't so much what folks focused on, was to manage families expectations in terms of what they could expect from us. It was necessary to stress that if we didn't know the answer, we would find out. If we didn't know the answer ourselves, we would find out when we were likely to be able to come back with them with surety on the matter. We would establish who the points of contact within the family were. I think Ade Johnson, Sheku's brother-in-law, saw himself as the conduit who we liaised with, along with Mr Anwar, the legal representative that was appointed. I cannot remember a great deal of focus on legalities whereby where we would have quoted the legislation. Clearly rules around disclosure would have been explained. What I mean is that it would have all been incumbent on investigators to explain that in order to preserve the integrity of the investigation, the autonomy of it, the independence, that during a live inquiry that we couldn't divulge information readily, because it could potentially lead to the collapse of a trial or subsequent information being trimmed or altered or witness testimony being influenced.

- 47. I remember a lot of questions in regard to that. One of the things, for example, I think Ade was trying to find out details of who the officers were and what they had

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said, and it may even have gone as far as, where are these people based? Where do they live? Does the witness live on the first floor of the flat or the ground floor? To provide information like that is the same as identifying an individual. We were very swift and very keen to avoid anything that would have undermined the standard of investigation. That's not to say that we didn't face challenges in terms of that, not only from members of the public, but from Mr Anwar, I know he was fairly vocal in terms of what information he wanted. I wouldn't have had much involvement with him directly, but I know that other more senior staff did.

48. I have been asked if I, in my dealings with family as a FLO, give consideration to the legal obligations on PIRC when it comes to involving the family. There was definitely an immense degree of focus on ensuring the family - within the parameters described - were kept informed, that there was a spokesperson within the family identified for the updates, that this was agreed directly with the family and if not directly with the family themselves, through their legal representative, Mr Anwar. I know that there were regular meetings to tease out those types of issues to ensure that there wouldn't be inadequacies or that there wouldn't be confusions. All of that was a clear focus and it was something that we, as an organisation, devoted considerable time to and took stock of throughout the investigation. I can't account for what happened after I left, but I know that this was clearly a focus throughout the time that I was involved. We were always very minded as an organisation to ensure that the process of the investigation and its progression couldn't be undermined by untrammelled disclosure of information that would potentially call the whole investigation into question.

Family Liaison Policy and Standard Operating Procedure (SOP)

49. I have been asked if as at May 2015, there was not a Family Liaison Standard Operating Procedure in place at PIRC. There was a Standard Operating Procedure that was drawn up by, I think, Alistair Lewis. This was a more streamlined version of the FLO policy that was in place. What I remember is that

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when I first joined the organisation, Irene Scullion - who was the Head of Investigations - was very keen to get policies in place that reflected the different investigative responsibilities. I do recall that I was asked to draft the original policy for PIRC.

50. The policy that had been relied on when the organisation first came into existence, and this is going back to St James House days in Paisley, there was a lot of reference being made to the Strathclyde Police policy or the Police Scotland policy. I think a lot of what went into the original full policy quite early on we cribbed some ideas from the policies of the police. I remember I contacted some of the people that I'd formerly worked with in Northern Ireland, a fellow called Stephen Black and another man called Fergus Jamison, asking them if they could provide me with any details of the policy, the oversight policy that they had in place within the Police Ombudsman's Office in Northern Ireland, because I thought I might be able to elicit something from that. I can't say this with any degree of certainty, but IPCC, which was the Independent Police Complaints Commission in England and Wales, I think we made some efforts to see what they had in place as well, but there was definitely a policy in place before the matter involving Sheku came about.


51. I'm not sure about the SOP. Alistair drew that up, but I can't say when that was. I do recall consideration being given to this and advice being sought, and input being sought at some of the meetings I referred to that we had as a FLO team. I put my hand on my heart and say that there may be some deficiencies in the policy. It was a bit of a laborious read - I do believe it may be extended beyond where it needed to go. I think there was a more succinct version that would have been drawn up, but my task was to draft an initial policy for consideration. It was never going to be the be-all and end-all and what was deemed fit for purpose as a reference point for investigators or FLOs.

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Independence of PIRC

52. Irene Scullion had a senior social work background, Irene was very focused on the idea of a civilian oversight body, albeit one that was maybe top-heavy with police officers or former police officers, but she wanted us to focus on our oversight credentials and have something which would be more reflective of a civilian organisation rather than a police-focused organisation.
53. It's very difficult to get away from the focus of policing when some people had spent 30 years in policing before they joined PIRC, and they'd held substantial senior posts within the commissions. It's not something you can disentangle yourself from overnight, and in my opinion nor should we. Yes, there should be a civilian focus but equally, there is an old joke in Northern Ireland which is that you can't get plumbers to investigate complaints against the police, and to some degree that's true. You need someone with a skillset and an understanding of police issues to be able. It takes a thief to catch a thief. There had to be a balance and I think the organisation had that. Yes, there was expertise from policing, but there were people that came in from Fire and Rescue, came in from Trading Standards, come in from the Scottish civil service, etc., that didn't have a police background. In my opinion, they performed just as an important role - equally as professionally - as anybody else did.
54. I have been asked if there were disadvantages to someone who worked at the PIRC having held roles within the police previously. There is a perceived notion by members of the public that if police are involved or employed by an oversight organisation, then the conclusion is how can this organisation be independent, if it's got people that wore that uniform, that have been rebranded under the name or under the guise of civilian oversight of policing. The perception is that the very people being investigated are being interviewed by former colleagues. I suppose the best way to put it would be 'same old police' given the fact that an oversight staff member maybe spent 30 years before as a senior commissioned police

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officer. Fingers are pointed to say, “So where’s the independence in that?” The same is indicative of the Police Ombudsman’s Office in Northern Ireland and the Garda Síochána Ombudsman.

55. At the end of the day, irrespective of whether you’ve been a police officer or not, you’re bound by the professional code of ethics, the rule of law as well, which requires standards in the public office. That requires independent forethought in relation to what you’re doing. The code of conduct within PIRC is in some ways very similar to the professional code of conduct that is applicable in Police Scotland and to the Police Services of Northern Ireland. They expect standards of the highest professional integrity and any departure from that could potentially lead to dismissal or certainly the person could be held to account.

56. I would say that PIRC, maybe more so than other similar organisations, would have recruited a lot of the people who were from police backgrounds, Police Scotland. However, at the same time, PIRC had taken staff from out-with police, from other walks of life, from the fire service, from consumer standards, from the legal profession as well. There was a couple of members of staff who had trained as solicitors and had come in to work for the organisation. So, everyone brought something to the table but, it could have been open to the criticism that it was maybe top-heavy with police officers at the outset.

Joint deployment of FLO from PIRC and Police Scotland

57. I have been asked if I had any experience of joint deployment of PIRC and Police Scotland FLOs following an incident. There would have been sets of circumstances and, I can’t be overly specific about this, but there were occasions I do recall being present with the families, victims, and there would have been maybe two FLOs from Police Scotland present and we would have been present at the same meeting. Police Scotland would have put the families on notice that we as PIRC were co-attending in advance. So, it didn’t come as a surprise when

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we came through the door. Families would have been given some insight as to why we were there. I was privy to some of these conversations, for example, they would have stressed that there wasn't any suggestion that there was any wrongdoing on the part of Police Scotland, but rather, because of the legalities and because of the procedures that are in place, there is necessity for PIRC involvement when serious injury is incurred after police contact, or when a death has occurred following police contact. If such matters occur then there is a legal requirement for the Police Investigation & Review Commissioner to be notified, by police and for them to initiate an investigation into the circumstances of the incident. Police Scotland would have facilitated such handovers and would have been present.

- 58. A lot of the time, the police investigation didn't cease because of the involvement of PIRC - the two would run concurrently, but the police would have their requirement to investigate criminality, perhaps involving members of the public. That would require continued input from them, but equally we would then advance our role in terms of what was required from the civilian oversight perspective to run concurrently.
- 59. Occasionally, we would check in with each other and, sometimes it would be the case that - without compromising the integrity of either investigation - Police Scotland might ask us for information about persons that we had encountered that could potentially provide them with evidence. With the consent of the individuals, we would have provided that information to Police Scotland to enable them to approach that person. We would have got the consent of the person before passing their contact details to Police Scotland.


Sufficiency of PIRC

- 60. I have been asked if, in 2015, I felt PIRC was sufficiently well resourced to carry out the investigation following the death of Sheku Bayoh that it was instructed to

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do by the Crown Office. I hold the view that PIRC was staffed by competent, professional and appropriately trained investigative staff. However, I believe that resources could be stretched when multiple deployments were required and when several high profile investigations were ongoing.

61. I have been asked if I felt PIRC had sufficient statutory powers to carry out the investigation it was tasked to. Fundamentally, the powers that PIRC had are the same as those of Police Scotland, we had the same powers of seizure, we had the same powers of arrest. PIRC were empowered, in legislative terms, to do what it was that they had to do. The deficiency was perhaps not so much down to the skill set that the people had but maybe in terms of the numbers that they had and that's a problem endemic within any oversight body I've been a part of. I think it's fair to say that the skill sets and the experiences of the people that were in post - seniors down to the rank and file - had the training, the experience, the knowledge to be able to do the job.
62. There may have been a reliance some of the time on Police Scotland to provide additional resources and support. The problem with that is that some people might be cynical and say that that such questions the independence of the organisation (PIRC) as a whole. A practical illustration of what I'm talking about is: - I remember a case in Glasgow at the Grand Central Hotel, a person fell from the sixth floor of the hotel, during the course of contact with police, he had fallen through a window. Police tried to prevent him from falling from the window, but he did, and he landed at street level and was pronounced dead. The Police Investigation and Review Commissioner, in my opinion, didn't have the resources in place to manage multiple scenes at once. For example, there was clothing that had fallen to the third floor, there was the incident scene on the street, there was the area of the scene within the hotel. I think we were a little bit overwhelmed - we need to deploy people here, we need to deploy people there, and there was a reliance on Police Scotland to help out with that. They had to help manage the cordons, certainly at street level, because now you know Grand Central Station

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was packed with people. Without input from Police Scotland, we couldn't have managed that scenes. We could not have prevented people from encroaching onto the scene, from contaminating the scene. I think that was a problem. We had a single MIT, but we couldn't call the neighbouring division to come in and help us out with this.

63. Then bear in mind that we're not dealing with just one incident. There were quite a number of these types of operations on the go concurrently at the same time. I think I got moved from Sheku's case because there was other stuff that would've withered on the vine if they didn't deploy us after that. There can't be a hierarchy between incidents – but there could have been a perceived hierarchy in terms of Sheku's case being more important. I had to devote resources to everything and dealing with bereaved loved ones at the same time. PIRC had people with exceptional knowledge, with more than appropriate capability, but I think in sheer number terms, we could be a little bit stretched, if something significant came in.

Previous statement

64. I have been shown my PIRC operational statement dated 16 July 2015 (PIRC-00359). There's always an operational statement required. From memory they were works in progress. What I mean by that is, it may have commenced and you would've added all the other information as you progressed with the investigation. Alternatively, it might have got close to the conclusion of an investigation, and you would've drafted your operational statement then. But most of these things - because of the protracted nature of what the organisation did, you kept this as a working document and then, when appropriate – and that might been a decision taken by the senior investigator – you would have concluded your statement. But it may have been started fairly early doors in the investigation and progressed throughout. You would have made other notes, for example, I would've made some salient notes in various notebooks and so on. They would've been notes recorded, and certainly in regards to a FLO deployment,

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within the FLO logs for the investigation as well. Those things would have been used as a reference point for the completion of an operational statement.

65. I have been asked why I would have finalised this statement on 16 July 2015. I can't call a specific instruction in relation to this, but it was probably done at that point in time because I might've been engaged with other cases and been more focused on them rather than this case. As was obviously the case, people fell off the radar. That's maybe not the appropriate thing to say, but there were other things that would've happened, and you could never be certain as to when a critical incident was going to occur. You had no prior warning about these things. Two or three of these things come in within maybe days of each other, and they all required professional input, from what I can recall, Alistair continued in the FLO role and probably would've had more involvement with Mr Anwar certainly than I would. Perhaps I got deployed elsewhere, and that's perhaps why the statement was finalised when it was.

66. I have been asked if this was the only PIRC operational statement that I prepared in relation to this case. It's impossible for me to say. It would not have been uncommon to have made a further statement, and that remains the case. You would complete a statement but that may just be an initial statement. You may have been deployed elsewhere and there would be a requirement for you to come back and to focus on the investigation. It may be for completely different reasons other than your initial FLO involvement.

67. I have been asked if my recollection at the time of completing the operational statement in was better than it is now. I would say, given the amount of time, better then. I couldn't say with any degree of certainty what's in this statement to be honest. I have been asked if the statement would be a true and accurate account at the time. It would definitely be. No statement would be made that would be erroneous. It would definitely be a true recollection to the facts pertaining to the investigation.

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Recordkeeping within PIRC

68. I have been asked if I had any email contact with the family or their solicitor. I recall having to draw up a summary of contacts had with Mr Anwar. I don't remember specific emails with family members. I do remember there most definitely would've been contact with Collette Bell, Sheku's partner, and Lorraine, Collette Bell's mother as well. That would've been certainly part of the remit. I know definitely I spoke with Ade Johnson on the telephone on quite a number of occasions and certainly in person as well, and Sheku's sister as well. I know we met with his mother, and I remember an interpreter being required in that set of circumstances for the statement, and I think that Alistair and I took his mother's statement.
69. I have been asked if I sent internal emails during the investigation. That would have been done and that would have been evidenced and recorded on a system called CLUE 2, which was the case management system, where information about any critical incident that we were investigating as an organisation was recorded. Everything that was pertinent to the investigation was included on there. Any emails would've been included on there.
70. From memory, there was always a hard copy retained as well and stored but everything was scanned and electronically recorded. If it was a note on the back of a cigarette packet, it would've been scanned and it would've been included. If it was a conversation with the victim or the public, we wouldn't have had a recording of the conversation but there would've been an action that led to that conversation, there would've been a place where you could update the narrative and record the information of what was discussed, what was re-affirmed, any questions that were asked would've been populated into that.
71. We all received training in the use of the CLUE 2 management system. I had previously used it within the Police Ombudsman's office NI, and there were what

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was referred to as some 'super users' within PIRC in regard to how that was managed. If you had a problem with the computer system, you could speak to them and they would have assisted. But, as far as I'm concerned, that was the reference point, and rightly so, for everything that we say and did and recorded. It included productions, statements, and most of the Fiscal emails. Any documentation pertinent to the investigation was recorded there by the office manager and the receiver.

FLO Log

72. I have been shown copies of the FLO log (PIRC-04150, PIRC-04151, PIRC-04152). I am asked if Alastair Lewis and I would both update this log. It would be done individually. , I would say it was probably in the earlier weeks, I probably would've recorded narrative. In fact, I know that I recorded a narrative in here. I would probably reference doing so on the CLUE 2 system and equally within my pocket notebook as well. Rather than repeat the whole thing, I think I would've probably have referred to the book and perhaps the page reference to which the information was recorded because you could've quite a lengthy discourse to record, and you wouldn't want to replicate that in a notebook because the policy around notebooks is exactly what it says on the tin. It's a notebook. It's not a FLO log. They're not one and the same thing. Sometimes you would've done them in the car outside a place where you met with the family, when things were freshest in mind. We've done it electronically where I am now - but back then, narrative was recorded just using your own handwriting, and that could present problems because people couldn't always read it. I would imagine Alistair and I would've both populated these at different points.

73. I have been shown that the victim information section is not fully completed in this FLO log (PIRC-04150). I have been asked if this section would usually be completed. It would have been, yes. That's my handwriting for Ms Collette Bell, partner. The only reason for not including it - some of the times when these

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matters are disclosed, there can be issues with disclosure and so on, but I did not, at the time, have all the information to hand. There can be uncertainties sometimes about the status of a person - it's maybe a terrible thing to say, but someone professes to be the partner of the deceased, that can sometimes cause a bit of a surprise because you've maybe been talking to someone an hour earlier who claims to be the partner of the deceased. So that can cause confusion sometimes. Sometimes the whole lack of populating some of this information is down to that. That's just my own experience of it.

74. I have been asked if the FLO logs were ever examined by the lead investigator. There would've been reviews carried out. In relation to this case, I can't say when those were done or how they were done, but there would've been an expectation that that'd be the case. I remember an incident prior to this before, where one of my FLO logs was redacted but it was used as a reference point for people. I have been asked about other cases where I say that the FLO log was examined and if I recall anything about who did that examination. It's only really been one-off. Initially, maybe two people would have taken responsibility for that because, at the outset, there were only two senior investigators in the organisation. That was extended to three when Markus came in, but the structure was senior investigator, deputy senior investigator, investigator, and then trainees came in as well. So, it would've been incumbent for the appointee - the SI in the case, I would've imagined would've looked at this.
75. We would've certainly been questioned on the content of them on a fairly regular basis, and I think the senior investigators then would've made clear what policy decisions were required. There were regular reviews, certainly verbally, which were done on a daily basis maybe more than once and it would've been my understanding that these would've been certainly examined at some point in time by the senior investigators. Normally, what I tend to do when I look at these things now when working in a senior capacity, I would endorse the FLO log to denote

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that I had taken cognisance of what was included there, and that would be reflected in the policy log. That's perhaps what my expectation might be.

- 76. If there were specific welfare needs of the family, invariably, that would've been flagged up. If someone had a learning difficulty or there was a mental health issue, for example, that information would've been noted.

- 77. I have been shown the FLO SOP (PIRC-03885) which indicates the welfare section of the FLO log concerns the welfare of a FLO and that there is the expectation that the senior investigator or the deputy senior investigator should hold regular welfare meetings with the FLO throughout the course of the deployment. I have been asked if I had any experience of such welfare meetings taking place. I had referred to the meetings that we had as FLOs, I'd be very surprised if information wasn't supplied to the more senior strategic staff as to any issues that emerged from that. It's difficult to be specific about the times and what was said after this period of time, there would've been consideration given to the whole FLO deployment equally, including the welfare of the appointed FLO as an individual and that would've been flagged up at the daily meetings and during the course of any other specialist meetings.

- 78. As I've said before that there was an open-door policy adopted and I don't think anybody was perturbed or in any way discouraged from approaching someone to ask for guidance if they're having any difficulties. But ultimately, you may not have necessarily gone to the senior investigator. You would've gone to your immediate line manager to express this. In doing so, my understanding would be that, if your immediate line manager felt that it was appropriate, they would have certainly appraised the most senior investigator of any issues. I have to say, from a personal point of view, I don't remember what the balance was. Naturally, the pressures that accord to a job like this and the stresses and strains that go with it are to be expected.

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79. I don't believe that there were any unreasonable demands made, certainly in my time, of Alistair Lewis or myself and how we went about completing our role as FLOs. It's very much the case that we would have supported each other as well. I thought that he was very supportive, but equally I'd like to think that Alistair would've said the same thing about me. I certainly would have supported him in all things. We normally acted as a joint deployment. The fact that the organisation did care - you weren't left to deal with these matters single handedly. I suppose I could rely on the fact that I had a very experienced member of staff with me, and I'd like to think that he would've certainly said similar of myself. We could've operated independently of each other, but I don't think there was a necessity to do that.

80. I have been asked about the publication of the FLO Standard Operating Procedure on 24 June 2015 (PIRC-03885) and if this SOP was intended to change our practice at all, or if it was intended to augment the existing policy. The SOP is undifferentiated from anything that came before. I think the word "augment" succinctly describes the purpose of this. This was more of a quick, ready-reckoner than perhaps the full-blooded FLO policy. I've seen this replicated elsewhere. It's probably good practice to have a SOP in place that reflects the role of the appointed FLO. This is a working document. Normally with matters like this, there's a date set for when the policy should be revised or should be reviewed. I attended the national FLO conference in Birmingham recently. There's always fresh thinking around these types of matters and things to be avoided and things to be engaged with. There are new bodies, new support mechanisms, coming into fruition all the time. Ideally the policy would necessarily do those things and be inclusive of all. It isn't prescriptive to the same degree as a policy would be. This is for us to say, "This is what I do in terms of a production that may come into possession of. This is how I might see to it that we professionally disengage from a member of the public at the appointed time" and some salient information is about how we might want to go about this. But it isn't the definitive Bible as such.

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81. I have been shown my PIR notebook (PIRC-04199) which covers between end of March 2014 and 22 May 2015 and then between 26 May 2015 and 29 September 2016. The last notebook entry for the investigation is 28 July 2015. I have been asked if this is when my involvement in the investigation ended or if I had any other notebooks going forwards with this investigation. It is a little bit difficult to say for definite. I can't state why it would be 20 July '15-- I can't remember anything significant about that date given the passing of time, etc. What I can say is that my involvement with this tended to be in the early weeks, months and it would probably be evident from the notebook that I was very engaged in other things. If involved, I wouldn't have stopped making notes. There will be a narrative about other things that I was involved in. I knew that I would've been on a period of leave, if I remember correctly, I would've been on leave most likely in July 2015 at some point in time, which had been pre-arranged, obviously, in advance of Sheku's death in May.

82. I know that Alistair Lewis's involvement continued beyond. It was probably policy that there wasn't requirement for the need for such an intensive involvement by FLOs. The family sometimes can be overwhelmed by the fact that there's two or more people that are continually meeting with them and visiting them at the same time. Alistair was an experienced officer. He would clearly want to manage these things really without input from anybody. I would say exactly the same thing about myself but a decision has been taken that I needed to be deployed elsewhere, and the issue with that is probably down to what we discussed earlier, if there is such a thing as a deficiency where PIRC is concerned, it would've been in terms not so much of the skill set inherent within the organisation but the sheer poverty in terms of the resources - poverty is an embellishment, but the limit to resources that there are within the organisation.

83. It isn't necessarily the most experienced or capable person that remains on the case. It could be that there's a demand for a certain expertise elsewhere that

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arises and therefore you could be required to go and deal with a firearms incident. Perhaps the reason why there isn't anything recorded elsewhere after the 20th. Any indices would be within CLUE, the case management system. There would be input clearly contained there, any emails written, any further statements, any reports that I'd have to compile for senior management would be included there.

84. I have been asked if there was anywhere else that I would regularly be updating and keep records during the investigation. Everything's disclosable. There won't be such a thing as a note that won't be referred to either in my notebook or within CLUE 2. If it was a document that was passed to me it would be 'productionised' and passed to the office manager or the receivers in the case in the incident room. An incident room was set up in respect of this job – people were appointed to the various roles, but the point of reference routinely in any job like this is the actions on CLUE 2. The FLO log is a source in which there would be narrative recorded. Equally, the FLO database. I can't remember if that was in existence at the time of this job, but that information would have been populated on hard drive, that would be included on CLUE as well. Then we refer to correspondence. If an email is pertinent or linked to an action, that email will be included not only in the correspondence section, but it will be appended from memory to the action as well on CLUE 2. There may be in an incident room, there would be a hard copy variant of that retained as well that would've been placed in store. I can't think of anything else.

Statement taking by PIRC

85. I have been shown my PIRC self-statement which references Ian Macintyre having asked me to carry out a check on police officer and staff statements that were held on CLUE 2 and ensure that the statements were populated in the correct format on the PIRC G Drive. I noted myself as completing this on 21 and 22 May, and then also on 29 May. (PIRC-00359) I have been asked what this entailed and why it was required. If I remember correctly, the statements were

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populated, scanned and then they ended up on an indice within CLUE 2. What it might be about is that some statements were handwritten. There may be is a bit of guesswork and putting the handwritten variant of the statement on CLUE. There was the expectation that the statement that's taken in its original format would have been typed up by either the investigator or sometimes an administrator, and then the typed version would've been proofed against the original and a typed version of the statement. My understanding was that there was a requirement for any kind of written statement to be typed. For disclosure purposes it would enable them to read it that bit more easily. I imagine that's what it probably was. It's not wholly clear to me, but I'm sure it had something to do with that.

86. I have been asked what the process was within PIRC in terms of preparing to take a witness statement and for ensuring that relevant points were put to witnesses. A statement was taken or recorded by any investigative staff. There'd be an action that would have been raised that corresponded with that statement, and that would have been your original reference point. Routinely, the action was only placed on the system when there had been discussion and agreement about what had to be teased out during the course of the meeting with the person providing the statement. It was based on what was laid out in the action and explained in the action that determined your plan in how the statement would be recorded. Normally, there would have been some discussion around those matters to be covered with by the powers that be, and that discussion sometimes would involve the investigative staff as well, as to, "What do we need to cover here? What is pertinent to this? What information do we need to elicit?" If there was any supporting documentation that the complainant or that the witness makes known to the investigator that this should be obtained with their consent and incorporated into the statement as well. The reference point of how the statement would be taken or what it should cover would be recorded in the action, and then there would have been some further discussion with seniors about any uncertainties, about any additional points that needed to be teased out, that

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maybe weren't made abundantly clear from the action. That's my recollection of how it would have been in place before you went to do these things.

87. I have been asked when the statement was completed what the process was for any senior person checking the content of the statement. They would have been reviewed whenever it was brought back into the inquiry team. I suppose that is twofold. There's a twofold reason for why that was done and, the first has been alluded to, which is to ensure that you've covered the points that were flagged up, in terms of the actual plan of how the statement should be constructed and what subjects needed to be dealt with within the statement. In addition to that as well, what arose from this was that there was a review carried out in terms of any further actions that could potentially arise from having received the statement and recorded it. For example, were a witness to flag up that another person was present when an incident happened, or that someone may have knowledge about someone who sustained an injury prior to their contact with police, that on review, would clearly lead to a further action being raised to visit whoever else it happened to be, and there again that would take on a whole life of its own. There would be an action plan accorded to that statement as well but, it would've certainly been cross-referenced and checked along with the original action as to whether the salient points and the key points have been covered.

88. I have been asked if there was a process for cross-checking statements against other statements for discrepancies or for additional information. There certainly would've been checks done for discrepancies. The requirement to do that, from memory, telling the investigator themselves to check for differences between the written statement that was recorded and then what the administrator had typed up, it wasn't uncommon for the investigator to say, "Well, this written transcript fully reflects, accurately reflects what's contained in the written statement."

89. Equally, on cross-referencing statements. There was the facility on CLUE to link documents whereby a similar point may have been raised in an unrelated

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statement, albeit a statement pertinent to that investigation, and that linking facility existed on CLUE so that you could link it up and it would highlight links, you could determine the links that existed then. There again, that's only as good as the information populated into the system by the users at the end of the day but, I know that there was a facility that was in place, whereby there was the capacity to link to other statements and the other information, be it in the form of notebook entries, emails, reports, exhibits,. You could, for example, link a statement that makes reference to a production and vice versa.

PIRC on-call system

90. I have been asked about the on-call system at PIRC. The on-call rota was drawn up for the 12-month period in advance, which gave people some certainty in that they knew what weeks they were going to be on call. It was once every six weeks. There was a senior investigator who would have been on call, a deputy and a team of investigative staff as well. It tended to be that there would have been perhaps a FLO, someone with scene management experience. In time, there was a trainee who would have been put in with the mix as well, who would have shadowed someone on a call-out, we tended to work in pairs. I don't remember it being anything more than maybe five or six people being on call at any one time.

91. I have been asked how often I would be asked to deploy to an incident while I was on-call. It was fairly commonplace to be called. It didn't happen on each occasion that you were on call, but there certainly would've been a requirement to respond in a relatively short space of time and the call could have been anywhere. It wasn't necessarily at the Central Belt. We always kind of joked about if something was to happen in Stornoway how quickly we could respond, just using that as an example. Most taskings tended to be within the Central Belt, Glasgow, Edinburgh, and we would've certainly responded within the required period of time. It didn't matter where you lived because you'd go wherever the incident required you to go.

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92. The threat, if you can call it that, was that if it happened outwith business hours, in the middle of the night. Sometimes the fewer staff and management might have been reliant upon goodwill of staff to answer the phone, if it was deemed necessary to get people from their beds who weren't rostered to be on call. I know that on some occasions that would have happened, not with a great degree of regularity, but it were the case that it would have occurred.
93. In a case like this, you've got all hands to the pumps. When this job came in it was definitely given a priority in the sense that other cases which were ongoing at the time had to be deferred temporarily so that this could become the focus. It tended to be when any critical incident came in that during the golden hours and certainly during the days, perhaps weeks that followed on from that, that other things tended to be put on the back burner, and the focus would have been on the key issue. This would have been the live case that everybody deployed to and that everybody focused their attentions on and, gradually, it would have been a return to normality in terms of dealing with other things and so on. A case like this was about as significant as it got in terms of my time with PIRC.


Early days of the investigation

94. I have been asked if I was working on 3 May 2015. I can't recollect that.
95. I have been asked when I first learned about the events on Hayfield Road on 3 May. I certainly remember my first real involvement was fairly early doors. It was the requirement to speak with the family and that just came after the visit by Mr McEwan, the chief superintendent. If I recall correctly, we were appraised of the matter originally by Ricky Casey and John McSporran. I certainly have recollections of that, and the information had been filtered down, certainly, from the duty SI and we would have been informed about this and required then to take the appropriate action.

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96. I have been asked when I learned that the person involved in the incident was black. I remember based on the fact - I don't mean this disingenuously but Sheku Bayoh, the name, it wasn't 'Patrick O'Reilly', for example, and I realised that this is likely to be someone with links out-with the UK. I'll be honest in stating that I don't remember. I'm not saying that this wasn't the case, but I don't remember it ever being said that Sheku was black. I don't remember that being the focus. I know that there was an urgency to respond and there was a focus on ensuring, by the staff, that everybody be appraised of what they needed to do, when they needed to do it and how, but that didn't differentiate this case from others that I've dealt with and what I subsequently dealt with.
97. It were always the case that there was a lot of activity around deployment, around actions being allocated and a lot of communications by telephone. If I remember correctly, whenever Alistair and I deployed, I drove the vehicle and Alistair was in the passenger seat and, it was Alistair that by large took most of the calls about updates en route when we were making our way to Kirkcaldy to meet with the family and also to meet with the senior police command as well. We had to introduce ourselves to them, make them aware of our involvement and how we had been tasked.
98. I don't remember it being stated that Sheku was black, and it really didn't change how we responded as far as I'm concerned in any event. All of these things were dealt with expeditiously. John McSparran was a consummate professional and he was very insistent, rightly so, that matters be dealt with early doors, in order to obtain best evidence and that the highest quality of information was obtained at the outset, and I don't think that Sheku being black influenced that in any way. It didn't appear to me to be any different from any other case, and that's certainly not to say that we were lax about things. It was always the case that we had to be properly suited and booted, be professional, be equipped to carry out on-call duties. There was a reminder about what equipment that you should have, how

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you should be available to present, a lot of emphasis on proper dress, on etiquette, on notetaking. That was always the focus, and this was no different from again from any other case. So, rather than being more professional in this case, it was the norm to be so.

99. I have been asked if I saw any media coverage around the incident or learned anything about it on or after the 3 May prior to returning to work. I think a bulletin appeared on the televised news and, from what I can recall, I immediately thought we'll have involvement with that as an organisation.

100. I have been shown the FLO log which begins with a summary of facts. (PIRC-04150). This is Alistair Lewis's handwriting. It is noted in the summary that Police Scotland officers observed Sheku Bayoh in possession of a knife approaching them" and that "a struggle then ensued". I have been asked if I read that summary at any point and if it ever occurred to me that that summary was not accurate. Personally, I didn't come back to it but, we proceeded on the basis, that when we met with the family anything that was made known to us as FLOs we made known to the PIRC investigatory team. I do remember that there clearly was mention of there being a knife. I also remember as well that it had been stated and, it doesn't say this here, but there was mention as well that Sheku was deemed by the police officers to be of immense strength, I have some notion that that was mentioned.

101. There was discussion at some point as well, I can't say when exactly this took place but that there had been a struggle that had ensued between police officers and Sheku. Something had come into the mix as well that someone had stated that an officer had been assaulted by Sheku, but this is all very vague. That's not to say that it was vague at the time. This is based on that we're a considerable period of time down the line and it's a little bit sketchy. Ade Johnson, for example, had a lot to say about the whole incident and indeed about the impact the incident had had on him. I specifically remember that because Ade Johnson, more than

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anybody else at the time, was certainly the focus that Alastair and I had. He was the person that we specifically dealt with.

102. What is of significant importance in terms of this was that we were very much armed with the notion that we were to go out and find out what happened rather than inform people about what did happen. There had been information provided from Police Scotland sources and I envisage that what Alastair has written here, that that accounts for what he has recorded here, but the focus was very much on, yes, we were provided with this narrative, this information from Police Scotland, but equally we have to establish the facts of this matter. We certainly didn't proceed on the basis that really any of this was true.

103. Things clearly have come to light in the interim period as a result of the investigation where specialists had been consulted with, with the approval of the Fiscal and with the knowledge of Mr Anwar - to conduct specialist examinations into Sheku's brain and his heart and so on in the aftermath. It was more about finding out rather than accepting. The focus was on 'find out' rather than 'confirm that this is the case'. I think that was very much part and parcel of how we went about it. I don't know where that information came from, but it's probably a summary of the interaction between senior Police Scotland staff and perhaps our own senior investigators.

Appointment as FLO

104. I have been shown the Family Liaison Policy which states that a risk assessment was required in advance of FLO deployment (PIRC-04460). I have been asked if a risk assessment was completed in this case and whose responsibility that would that be. A lot of the time, we were reliant upon the information that can be elicited from Police Scotland in terms of are there any perceived risks? For example, does anybody that we're likely to be in contact with have a propensity for violence? Are there any mental health issues? Are there any specific medical

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issues that we have to be made aware of? You know, does someone have a disease? Does somebody have hepatitis B? Fundamentally, the police have obviously access to information that the Police Investigation & Review Commissioner doesn't. So partly down to the differences in deploying as a police officer and deploying as a civilian oversight investigator, there has to be that exchange of information, which is the best source of information that comes from Police Scotland. That can only occur if there is that interaction between Police Scotland and staff within PIRC. I wasn't privy to that at the outset, so clearly those were matters that would have been attended to by other persons but there, again, fundamentally this would not have been different from any other investigation in that regard. The same rules applied. The same procedures lent themselves to this process.

105. The need to communicate was impressed upon us all - to keep in touch with one another, not only from an investigative perspective, but from a welfare perspective. From both my line managers, Maggie Headrick and Ian MacIntyre, there was always an insistence that after any deployment that you notified them to say, "Look, we're clear of this now. We've completed our visit or our call and there are no issues." Sometimes we would have been contacted throughout any deployment to ensure that our well-being was not at risk, so it would be proactive rather than it been incumbent on us. Unfortunately, I can't be specific about this case. I can't remember the calls as such, but that's certainly the approach and the expected approach by the management and by the team in response to what the management required.

106. I have been asked about meeting with Alistair Lewis and William Little on 4 May at 10.40. At this meeting I was appointed co-FLO with Alistair Lewis. FLO tasks were outlined at this meeting by William Little. The notes state that, "Family liaison tasks were outlined at the meeting by Mr Little." I have been asked what I recollect of this meeting. I knew Billy Little quite well, and we would have been on good terms with each other. It's not that I was on bad terms with anybody, but we sat

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in close proximity to each other in the team. Billy was always very professional about how he went about things. He set a good example to the other staff in my opinion, and I think I'd go so far as to say that management, the very senior people, he would've been one of, certainly one of the deputies, that they would have relied upon to contribute meaningfully to any investigation. He was one of the people really that would have been willing to help, and that input from would have been valuable in contributing to how you went about things. I don't have any great specific memory of this particular briefing as such.

107. I do remember subsequent briefings, which were done in front of the whole team by Billy. He was clearly experienced in dealing with those types of things. He didn't leave stones unturned. He had thought things out and he tended to work from a briefing note where he had the information to hand. That was to prevent any misunderstanding, but I can't be any more specific than that about how our FLO deployment went about. It would clearly have flagged up any key issues about the family, about the locations of the family, about the dynamic in terms of who Sheku's partner was, what his relationship was, the fact that he had a child with a previous partner, issues around the necessity to approach the previous partner, associates, what he was engaged with at the time in the period leading up to his death, as was best known at that point. All those things would have been certainly outlined.

108. I have been asked about the whole team briefings where there would be a FLO focus. We had quarterly meetings amongst ourselves as the FLO team but, if there were any specific FLO-related matters, whoever conducted the morning briefing would have addressed those. The person conducting the morning briefing tended to be the senior investigators, John McSporran and Ricky Casey. John Mitchell tended to be present but stood back to let the SIs attend to that, but certainly he would have followed it up with any pertinent follow-up questions or made any observations that he felt were crucial to the progression of the case. At the morning briefing there would have always been time to focus with the FLOs.

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It would have been incumbent on Alistair or myself on a daily basis when there were key issues to provide an update as to where we were, what had been said, what the intentions were going forward in terms of who we were going to meet, when, how. Was this with the consent of the family? Who else needs to be notified? Do any other support services need to be notified? Do we have details of the legal representative and perhaps their wish to attend? Really anything that could be construed as being important would have been addressed at those meetings.

109. On occasion, I do recall the Commissioner being present. I do recall appraising the Commissioner myself of developments in the case from a FLO perspective and giving her an overview of who we had spoken to, when, why and what pertinent information that could potentially result in further actions that perhaps hadn't been raised at that point but which were likely to be raised, providing her with an insight into all those types of matters. Whilst we addressed the Commissioner, clearly the Senior Investigators were present, and they took stock of what was being said as well. It wasn't a one-on-one meeting with the Commissioner. There was a sufficiency of time given for all these types of matters to be explained, be it the house-to-house inquiries, the witness strategy, the production strategy, the FLO strategy. You didn't get out of the meeting without having to provide narrative and an update in regard to those matters.

110. I have been shown notes from the morning briefing on 5 May where William Little noted "Diversity support required for PIRC FLOs to take forward interactions with family." (PIRC-04156) I have been asked what was meant by this. Police Scotland used to run a monthly diversity event at the police college in Tulliallan. There would have been various attendees from a variety of stakeholder organisations, PIRC included. Ninety per cent of the time, it was myself and another member of staff from the complaints directorate that would have done the promotion and interacted with the trainee officers and so on. They put a lot of focus on that interaction and the need to educate and engage, everything between minority

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groups from foreign nationals, people of specific sexual and religious persuasions and so on. Diversity was something I was focused on.

111. I'd imagine that maybe influenced Billy Little in including that was the fact that there had been a focus on the issue and the subject material of diversity. It had been established by this stage that Sheku's background was in Sierra Leone, they were of African descent, Muslim, in my understanding that was the consensus faith amongst the family, but not necessarily in its entirety. I think what Billy was focusing on there was maybe the need to grasp some understandings about how religiously and how culturally that might impact on how Alistair and myself would have done our job in terms of speaking with the family. Clearly, it didn't apply in all circumstances given that Collette Bell and Lorraine, her mother, to the best of my understanding, they were Scottish. There would have been no special reasons to consider their ethnic background or religious background, whereas in the case of Sheku's extended family, perhaps there would have been. I imagine that that's what Billy was referring to there. I do remember discussion about this generally and indeed with Police Scotland, but in respect of this specific meeting I couldn't say that it was mentioned or otherwise.

112. I have been shown the notes of the meeting which indicate that I and Alistair Lewis were tasked with "obtaining relevant background details of the family members and the victim" (PIRC-04150). I have been asked to provide any context as to how information about the victim's family is part of the terms of reference of the investigation. A lot of the information was propagated by Police Scotland. I wasn't privy to those meetings or discussions in some cases, but I know that clearly this information about Sheku's background and his family's origins would have been provided to PIRC by Police Scotland initially. Further information about that was elicited in due course and Alistair Lewis and myself, we certainly would have played a part in that. That was most definitely part of our remit in terms of what we were expected to achieve in view of interactions with the family, be it Sheku's mother, be it his sister, his brother-in-law Ade especially, and clearly

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Collette, his partner, the mother of their child, and Lorraine and so on. It was really to find out about the man in general, about what he enjoyed doing, what he didn't enjoy doing, and who he consorted with. I mean, there were other companions who were spoken to by the team as well, Martyn Dick being one of them.

113. This wasn't something that was wrapped up necessarily short term. It was continual. Even in respect of other actions, if anything emerged about Sheku - could have been anything from clubs to societies, to who he consorted with, who his friends were, clearly mentioned about his previous relationship, but Collette Bell seemed to have a significant awareness of what had gone before. They'd obviously been very close, and she spoke about Sheku in the statements that she provided and about the nature of the relationship and about the kind of father that he was to his child. We didn't hear anything said about Sheku that suggested that he was a bad person in any way from my recollections, but that's certainly how any information that we obtained primarily in Police Scotland and what we were able to establish to complement that, or to further that.

114. I have been asked if I would have expected a family liaison strategy to have been in place on 3 May 2015, prior to my involvement in the investigation beginning on 4 May. I think really the textbook answer is that it should be a consideration at the very outset of an investigation. Now, whether that is the case here or not I can't say for definite. We were certainly appraised of what to do, whether this was noted, whether this was recorded in a SIO policy log, I can't say for definite.


115. One thing that I know from experience is that an SI may well have policy logged a decision around the various strategies, including the FLO strategy, but in the throes of telling you what their expectations are around the information that they want you to obtain, they won't at the same time say to you, "I have all of this recorded in my policy document electronically or in hard copy format." It often goes without saying that that would be the case. To some degree, every case is

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a case of its own merits. We know that Sheku was of African descent and he spoke other languages aside from English. Culturally, because of his background and associations to Sierra Leone, he couldn't perhaps be perceived in the same way as a person from the UK but, it was always impressed upon us to never make any assumptions and to be prudent in regards to establishing that type of information. I can't say that anybody presented me with a written strategy and said, "This is the strategy and this is what you must adhere to, and this is recorded in my policy log." I would always have assumed based on what we were told that consideration had been given to that. I'd be very surprised if consideration hadn't been given to a formulated strategy. I'm sure that there will be narrative within a policy log which will show that that was given consideration to, and fairly early doors as well.

116. I have been asked if I have any insight into why Alistair Lewis and I were appointed as the FLOs in this case. I have no doubts as to my capability and ableness to do the job and the same would be said certainly of Alistair also, but equally there's three or four other people that spring to mind that would be equally adept at this type of role. Clearly, the powers that be in their infinite wisdom they appoint the two people. It clearly was a job, looking back, for two individuals, which is best practice in any event with certainly a critical incident. That's what all guidance and policies should reflect, which is in line with standards that are prescribed by national policing within the UK. I can't say that there was a special reason for Alistair or I. Hazarding a guess, it could well be down to that we had capacity to do the job at that time, possibly because Alistair and I had both been engaged, albeit on a temporary basis, as coordinators. Whilst we were perceived as FLO coordinators, we can still deploy as FLOs, and that may have influenced the decision-making around it.

117. This was never confirmed, but in the case of myself - if I'm going to take a stab in the dark about this - I'm not a Scotsman and perhaps given that we're dealing with a family of African origin and a deceased of African origin, that perhaps it

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would illustrate to the family that PIRC is an inclusive organisation, that it employs people from outwith Scotland, and I suppose I come across as an Irishman at the end of the day, even though strictly speaking I'm not. Whilst I can't think of cultural similarities between Northern Ireland and Sierra Leone, but it illustrates the whole point that they're diverse in terms of their recruitment policy and decision-making, certainly up to some point. That may have had something to do with it, but if I'm being honest, I think it was very much a case of our availability to be able to do the job at the time, having capacity to do it.

118. There were other FLOs I can think of, for example, Ross Stewart, who was an investigator in the team who was also a FLO but would have been very capable in terms of his scene management credentials. Maybe thought on this occasion, "Deploy Ross in his capacity as a scene manager." John Ferguson, he was a very capable and experienced FLO, but you can't put the one very capable and experienced FLO out to the same job all the time. I have to say as far as FLOs were concerned, John would have been very much the order of the day in terms of what you would have wanted coming through your door in a crisis situation. He was a people person, but he also happened to be a very adept scene manager as well, so maybe they thought, "Well, this is maybe one for Alistair and John, and we'll free up John Ferguson to do something else."

Meeting at Kirkcaldy Police Office with Police Scotland officers who had met the family of Sheku Bayoh

119. I have been asked about the meeting I attended at Kirkcaldy Police Office with Alistair Lewis and with Detective Constables Andy Mitchell and Wayne Parker and Detective Sergeant Graeme Dursley. I have been asked what I recollect of this meeting. It wasn't an overly formal meeting, I know that much, but it was a purposeful meeting. One of the things that I asked for during course of that meeting with the officers Police Scotland had issued a statement which I think was intended for the families, which was a statement commenting upon the

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incident involving Sheku and Sheku's death. I think I obtained that statement, if I remember correctly, but that statement was made available to us, or we requested it, or it was an element of both. I think that that was the same statement that perhaps had been provided to Ade Johnson and the family, but my authorities at the time wanted a copy of that. That was passed to us clearly for inclusion within the investigation.

120. I have been asked if it was usual to meet with police officers who had delivered a death message in advance of PIRC FLOs being deployed. I'd say that it wasn't usual in the sense that, fortunately deaths didn't come about all that regularly, and if they did, it wasn't something that I was necessarily having to focus my attentions on because I would've been involved in something else. It didn't come as any surprise to me that this was something which was actioned and that we were advised to engage with Police Scotland in respect of. This clearly was a significant referral from the very outset. Whilst there were others, a lot of the stuff wasn't of this significance or of this magnitude in terms of the required input. It was clearly a decision that I would imagine may have come off the back of a suggestion from Police Scotland that our investigators met with them. That perhaps came across as prudent advice, and our own authorities acted upon it and saw to it that Alistair and I would meet with these officers for the purposes that we discussed, but it wasn't an everyday occurrence.

121. I have been asked what impression I was left with after the meeting. It was apparent that there had been hostility. Clearly, if there's hostility, that presents in itself a barrier to progressing any investigations. You know, the police officers - the folks that I spoke with, whatever rank - it was apparent that there had been hostility, that the police, whether justifiably or unjustifiably, had encountered problems in their dealings with the family. Perhaps on one hand arose from there being cultural differences between the officers and Sheku's family circle, and equally because clearly the family had formed this clear notion as to what had happened. It seemed to be very apparent to me from the very outset when I met

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Ade and some of the family that in their view this was an unprovoked attack on an innocent member of the public, that being Sheku, by police officers. It was apparent to me that this, certainly from what the hostility appeared to be based on, was racially linked and racially influenced. The family had this clear notion that this was how it was, and that continued to be the case.

122. We convened in Edinburgh for family members to see Sheku's body, and this was after the post-mortem examination. There were some very unsavoury comments made by family members I can only interpret it as being against Police Scotland. There seemed to be this perception from the family that the police were wholly and utterly in the wrong, had basically assaulted an innocent man for no reason and that, in the interactions with police, was what they were being told.

123. I believe I took a statement from Chief Inspector Shepherd, and I do believe she alluded to the hostility to some degree, and also because of the family's cultural empathies and identity, she talked about the fact that, I don't think she was the type of person that would have taken a back seat or a lesser role, but there seemed to have been a decision taken whereby Mr McEwan, the chief super would speak to the family and not her because she was a female, and I think this was religiously motivated to some degree. I can remember some discussion about that which might be included in the statement.

124. I have been asked if any person from PIRC asked any person from Police Scotland for a FLO-specific handover. The only thing I can possibly comment on about that, is that there was a focus in PIRC for us to attend and make ourselves known to the family. There was deliberation around the fact that it was the intention of Police Scotland that they had reason and justification and I suppose legal requirement to meet with the family. Chief Superintendent McEwan was the person I think that had taken responsibility for that. For some reason it was commented upon to me – and this may or may not be right – that he had shown up in uniform. The focus was that Police Scotland were going to do their bit, for

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want of a better term, first of all, and then after that, PIRC would go in expeditiously and explain who we were, what the purpose of our organisation was, how it had come about that this matter had been referred. I know that that was the focus to make it abundantly clear that any investigation by Police Scotland was one element to this but, of equal importance, certainly from a PIRC perspective, was that PIRC were doing an investigation which was in the public interest, which was clearly for the purpose of establishing all relevant evidence as to the circumstances of Sheku's death.

125. I can't remember specifically sitting down for a formal handover. I think Police Scotland, at the same time that the PIRC investigation was ongoing, also had reason from an investigative/FLO perspective for contacting the family and remaining in touch with the family as well. I don't remember a formalised handover. It wasn't like that to the best of my knowledge here.

126. I do remember a room full of people and Alistair and I making efforts to explain who we were and why we had come, and there being a certain degree of hostility towards us. I think that hadn't been helped by the fact that Police Scotland, rightly or wrongly, the interaction didn't appear to have been good between the family, the neighbours, the companions and Mr McEwan and Nicola Shepherd, but I'm not sure that that went fantastically well. One of the things was that some of the people were upset, from memory, about the fact that Mr McEwan I think appeared in full uniform or with a hat on. This caused consternation I think where Ade Johnson was concerned.

First meeting with the family of Sheku Bayoh

127. I have been asked how I explained the role of the FLO and the role of PIRC to the family. The most difficult thing about that meeting was establishing who the focus should be for us. It wasn't ideal in the sense that it was quite a gathering of people. It was in a living room, I think it was Ade's home address, that the initial

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contact between Alistair and myself and the family took place. The whole thing was fraught with problems because it was very difficult to answer a raft of questions at once. I'm quite confident that Mr McEwan would have had the same problem. There was, and I can only give an approximation about this, but the neighbourhood seemed to be in the house when we arrived. There were a selection of different extended family members, nuclear family, close associates of Sheku present. There were some persons who were very, very upset and aggrieved – and understandably so – about what had happened.

128. I do remember Alistair and I being back-to-back in the middle of the room trying to deal with a raft of questions at once. Our first objective was to try and get some degree of calm established, which we did in due course, and then really try and have them afford us the opportunity to provide them with an insight into the role of the Police Investigation & Review Commissioner, how it'd come about that we had been tasked; the purpose of why we were there; equally important, who we were and we were asked about our background. A lot of the people found it very difficult to differentiate between Police Scotland and the police investigation and review commissioner - very much because of the fact that it's called the Police Investigation & Review Commissioner - "Police" is in the title. "So, are you not police as well?", and there were challenges around that.

129. From what I recall, we managed to get to a point where I think Ade Johnston started to certainly take aboard what we were trying to say and establish for himself who we were, when he had vented his anger about the issue as he saw it, which was this man had been brutally murdered. It was a case of explaining what our role was; how we would like to facilitate the family; that we were there to help the family; to assist the family in due course, up to as conceivable in legal terms, provide them with information about the information that we were going to elicit about the circumstances of Sheku's death; how we were going to store that information; what we were going to do with it. From memory it was a focus for the family as to who information was going to be made available to, "Well, if you're

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going to make it available to the Fiscal, why are we not going to get it beforehand?" And we had to give some explanation around why we couldn't share it necessarily with them for a lot of the reasons that I've explained.

130. Ade was fairly adamant about things and that this was an important matter that was going to have to be properly addressed - he was very angry about the situation. There were people that were very upset. There was folks I spoke to and I still don't know their connection to the family. They clearly were Scots people, they were white. I think they were neighbours. They were incensed about it as well and there seemed to be a very anti-police view being taken of how this all had come about and that was my overriding memory. I had to deal with individual questions. Individual folks wanted to know different things and when we weren't in a position provide the answer, we said that we perhaps in due course would, subject to maintaining the integrity of the investigation. We managed to get information that we needed as to when we would next meet and how we could be contacted. We left our contact details with the family so it was there in black and white, our business cards, for want of a better term.

131. I think some of this was most committed to the action log on CLUE or the FLO log at a later stage clearly by either Alistair or myself. There must be in note of that meeting somewhere and how difficult it was. It wasn't helped by Mr McEwan's interaction not having gone well beforehand. We were aware that there had been hostility before we went in, so there was a police presence, if I remember correctly, outside the property. So, when we arrived, it was quite an experience.

Properties seized and controlled by Police Scotland

132. I have been asked if I was present when Investigator Lewis called DSI Little to find out why Collette Bell's home had not been released to her and if I have any understanding about what led to that call. I think I do recall the call occurring. I

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think that was a decision by Police Scotland - I can only say it may well have been a decision that was taken in consultation with senior management within PIRC. Because clearly in the aftermath of this, it was essentially an unexplained death at the time. Given that Collette, that she was the partner of Sheku, clearly there would be potential evidence, be it in the form of media devices, for example. There would have been material held at a property like that that would be pertinent to both investigations being conducted by Police Scotland and indeed by PIRC. So, clearly there was a preservation of evidence issue at stake. I envisage that was the reason for why the property wasn't made available to Collette until there had been a decision taken around that.

133. Clearly, the decision in regard to that wasn't taken by me but, I'm hazarding that that was the purpose of the conversation between Alistair and Billy. Alistair had obviously been challenged on why the house wasn't being made available, I would say by the family, and he clearly wanted to find out and there was no doubt he took it upon himself. The contact I think there was between himself and William Little to determine why that was the case but whether Alistair asked Billy what happened further up the line, I can't say. In a sudden death homicide inquiry, that's par for the course in my opinion. To hand the property back could jeopardise the integrity of the investigation. It could result in a loss of best evidence and information during the golden hours of an investigation.

134. I have been shown the PIRC scene manager's log notes that Collette Bell's home was "returned on instructions of Mr Billy Little on evening of Monday 4th May 2015" (PIRC-04173). I have been asked if it was accurate that it would have been William Little who gave the instruction that the house could effectively be returned to Collette Bell rather than Police Scotland. Whilst Billy has articulated this, he's the conduit. I don't think that Billy took that decision in isolation and admittedly it doesn't say that, but I would hazard a guess that Billy, probably before confirming what is recorded on the log, on the scene manager's log, would have consulted with someone more senior to himself who may well have had a conversation with

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someone of a strategic commission rank within Police Scotland, and Billy has articulated that decision. I don't think Billy would have taken that decision in his own right, but that's clearly for Billy to confirm, not for me. I don't remember a discussion about that myself.

Gold Group meeting on 4 May and Chief Superintendent Garry McEwan's visit to the family

135. I have been asked if I attended the Gold Group meeting at 16.00 or if Investigator Lewis fed anything back to me following the meeting. There was an assistant chief constable present, which really was their gold group meeting. If it's the same meeting and I imagine that it must be, this was round about the same time that we met with the three officers and the police statement with the focus for release to the family that that occurred. Mr Nicholson was at the meeting, may well have been the chair and, yes, Alistair and I were in attendance. We weren't seated at the table. I know that much. We were in the room and we weren't privy to a great deal of discussion that took place at the meeting, in the sense we weren't involved in the discussion. It was a discussion that senior police were having amongst themselves about their plan of action, for example, media strategy and environmental trouble, things like that, which are issues that senior commission people will ultimately consider. From memory, the only thing I can recall about that is us - I'm not saying justifying ourselves but, this is only my recollection, but it was us explaining our role to some of the senior strategics within Police Scotland.

136. We more or less explained that we were Alistair Lewis and John Clerkin from the Police Investigation & Review Commissioner and that following the referral from Police Scotland, we had been appointed FLOs in the case and that it was our intention to meet with the family. It was articulated back to us that ideally that meeting could take place after Chief Superintendent McEwan meeting— I think who in Scotland was down under the title of divisional commander – and Nicola

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Shepherd, that they would meet and then it was just to get a strategy in place logistically as to how that was going to be facilitated. But we weren't given insight or an input into decisions that Police Scotland were going to take in terms of their investigation of the matter or anything like that. If we had been sticking our noses into that, they would have given us short shrift.


137. I am asked if Chief Superintendent Garry McEwan expressed that the family of Sheku Bayoh were unhappy with PIRC and PIRC's lack of contact. I don't have any recollection of that being articulated by Mr McEwan. I'll be honest in saying I'm not entirely sure I have met Mr McEwan or spoken with him in regard to this or any other matter for that case. I know that there were dissatisfactions expressed by Mr Anwar, the legal rep for Sheku's family. That, from what I understood, was down to the fact that they hadn't been provided with answers to questions that as a family they raised.

138. I don't know how I became aware of this but, one of the things that seemed to really grate the family was the fact that these questions, was that PIRC couldn't provide a definitive answer. They wanted to know if someone who had taken footage at the locus where Sheku's death occurred, if that person lived on the first floor or the second floor apartment. PIRC declined to answer the question because to do so would identify somebody. I mean, no SIO would ever identify a witness to a bereaved family or anything like that but to do so in stating that that came from the first floor or the second floor or the basement or whatever it happened to be, that would identify somebody, and there could be a risk that could be accorded to that. There were questions being raised also about the identities of the officers involved and the numbers of officers that were deployed. Similarly, to divulge that information would undermine the whole integrity of the investigation. Equally, the officers would claim that they weren't being afforded a fair trial if this information about their whereabouts and about what they did was being made known early doors and whether they had been even spoken to or not to the legal representative or to the family.

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139. So that's why the family were dissatisfied with PIRC, they said that PIRC weren't doing a good job and they weren't happy about the level of input or the scale of the investigation or why people weren't being interviewed as soon as. But there were justifiable reasons, in my opinion, for all of that and the case would be consistent with a best approach in a professional investigation. I think that the family – maybe even Mr Anwar perhaps to some degree – didn't seem to have an appreciation for the issues concerned. Now that's not exhaustive, but those were the types of things that I know the family were dissatisfied with, that they were annoyed about. Yes, it is frustrating, especially when you've lost a loved one in circumstances like this but, equally, the quest for justice and the professionalism of an investigation is dependent upon the proper disclosure of information.

140. I have been asked about Superintendent McEwan's visit to the family on 3 May and if it had implications for PIRC. It didn't really change what PIRC did in terms of progressing the investigation. I think given the resources that we had and the powers that PIRC have, I think we did everything that we could possibly do and that was irrespective of whether Mr McEwan's meeting went badly or otherwise. I don't want to point the finger at Mr McEwan because he just happened to be the man in the line of fire, maybe at the end of the day, that's what happens when you become divisional commander. I think it's very much a case of that, it didn't smooth the path for Alistair and I to go in and try and do our job quickly and professionally because we were dealing with people that clearly hadn't had answers to questions that they wanted answers to. When we went in and we eventually got to explain who we were and why we were there, they maybe erroneously thought, "Well, now we're going to get all the answers we need from these people," but for the same reasons as Police Scotland, we couldn't give them really any more information than the essential narrative. Could we tell them how Sheku had died? No, we couldn't. Could we tell them what the outcome of the

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investigation was going to be? No, we couldn't because that's a decision for the Procurator Fiscal and the courts, etc.

141. I suppose maybe to some degree, we suffered the same fate as Police Scotland that we can't give a timeline for the completion of an investigation because that's an impossibility, partly because a lot of it is out of our hands. There's the whole judicial process, which is a thing in itself. We didn't know precisely at that point in time, what the extent of the investigation was going to amount to or what the actions were going to entail. They wanted information about all of that and we couldn't give it to them, and I imagine Police Scotland were exactly in the same position. People might want to hear answers to all those questions in the short term but, the reality is you would only mislead people if you had provided answers to those questions. We can't answer all these questions probably even still. So that was the difficulty but folks maybe that don't have an investigative background don't realise that. Again, I don't want to point the finger at Police Scotland at all. Mr McEwan just coincidentally was that person that was in that situation and had to try and deal with it as professionally as he could. Were there deficiencies in that, that's not for me to decide, but it came off the back of that. We knew we were going into a challenging situation in any event and it was and we expected that, but that's what we're trained to do.

142. I have been asked about the statement I took from Chief Inspector Nicola Shepherd (PIRC-00208) and that COPFS would later go on to direct that Chief Inspector Shepherd be re-interviewed to be asked about the information passed to the family on 3 May in her presence (PIRC-03302). I have been asked about the need for COPFS to direct a further statement be taken. I can only say that it's not uncommon for there to be a revisit, and it may not necessarily be generated by COPFS, but it could have been generated within PIRC itself. I don't think there's a deficiency in the statement that I have provided, but perhaps at the material time Nicola Shepherd maybe wasn't as clear in terms of her recollections. Equally, it could well be the case that Ade Johnston, through the

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legal representative, Mr Anwar, has clearly emphasised issues in relation to what Mr McEwan said and how Mr McEwan interacted with himself and the family in regard to that first meeting, and maybe that specific point needed to be more thoroughly examined. I do know that there was a further statement taken off Chief Inspector Trickett as well, at a later stage by my own authorities, which explored further matters which weren't addressed perhaps in the earlier statements.

143. I have been asked if I recall why a further statement was taken from Chief Inspector Trickett. It wasn't addressed with me. I just think that there were further matters perhaps that came to light that it was believed Chief Inspector Trickett would be able to address. I think it was Alistair Lewis and I that took the statement from him in the first instance but, like all of these things, it was deemed necessary to take a further statement. I don't think the statements contradict each other. It's par for the course as far as I'm concerned, and there would be an expectancy in a matter of this magnitude that there would be a further statement taken, if it was felt that there was further reason to explore a specific constituent of what would ideally be fully addressed in the initial statement. There could be a variety of reasons for that.

Liaison with the family on 4 May

144. I have been shown the FLO log for 4 May, which reflects that Investigator Lewis spoke to Aamer Anwar at 17.29, to inform him of our arranged visit to meet with Sheku Bayoh's family, and again at 17.48 to inform him of the result of the post-mortem. (PIRC-04150). The FLO log notes that in the call at 17.48 Investigator Lewis advised Aamer Anwar that the post-mortem had occurred and that the cause of death was unascertained. I have been asked if I was present when these calls were made and whether I have any memory of these calls. In the early doors in terms of the investigation, Alistair and I would have been together continually. It has to be said that, Alistair seemed to be the conduit for contact with Mr Anwar and indeed the family, certainly on most occasions that I can recall.

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I do remember conversations, some of which were carried out when we were in the vehicle, possibly en route to where we were intending to go. I was driving and I believe that Alistair would have been in the front passenger seat a lot of the time, and hence Alistair was better placed to deal with the calls.


145. Specifically, I can't say for certain that I was privy to the conversation where he informed Mr Anwar that we were en route to meet with the family. I do remember discussions around the whole issue, and I remember being made privy to the fact, the fact that we were going to meet the family. That would have already been set in stone by management within PIRC before it was confirmed in any event to Mr Anwar or indeed Ade Johnson, who there was a lot of contact early in the investigation. Normally, when we spoke to Mr Anwar, shortly after or perhaps before we would have been speaking with Mr Johnson as well.

146. I have been shown the FLO log entry for the meeting with the family on 4 May at 18.30. The FLO log notes that we were "subjected to intense questioning by a large contingent of the family". They are described as "occasionally hostile and frustrated" that what Police Scotland had told them differed from what was said by PIRC. (PIRC-04150) I have been asked what the differences were that the family were frustrated by in what they were told by Police Scotland and how that differed from then information they might have received from PIRC. I obviously remember the meeting and, if I remember correctly as well, the meeting that Alistair and I engaged with the family came after himself and I had met some of the senior officers within Police Scotland; I think ACC Nicholson. Our meeting then took place in the wake of Mr McEwan, the incumbent Chief Superintendent at the time, and I think Nicola Shepherd, who was the Chief Inspector. I think they were principally the two police officers who had met with the family – the extended family – and, from what I gathered, some neighbours as well. I agree by and large with what Alistair has recorded. It was certainly highly charged, but I don't think they were particularly hostile. There seemed to be a great urgency to ask a lot of questions by the family, by Ade Johnson. I think Collette Bell, Sheku's partner,

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was there. Perhaps her mother was there as well; from memory I may have spoken with her. They were clearly upset, which I wouldn't confuse with hostility. There were a lot of persons who were crying and had been upset. What I do recall about it was that they appeared to be unhappy with what they had been told by Mr McEwan and how he had gone about it, and I think what had caused frustration for them was the fact that they had asked questions about various scenes and why these were being retained under the control of Police Scotland.

147. Mr McEwan had given a response which would have been consistent with what I would have expected from a senior police officer managing a critical incident in its aftermath - that he wasn't in a position to divulge information. It's the old adage: it may have compromised the integrity, the security of the investigation, and it wasn't satisfactory. Perhaps, he himself didn't have all the answers to the questions being asked about how many officers were at the initial scene and so on. This seemed to be of consternation in terms of what the family were concerned about. My view was we didn't say anything that would have contradicted what Mr McEwan would have said. Our task and our reason for being there was to explain in general terms why PIRC were involved and to introduce ourselves as being the appointed FLOs in the matter – Alistair and myself – and we went to quite significant lengths to explain the distinction between Police Scotland the Police Investigation and Review Commissioner to make it abundantly clear that PIRC was the oversight body. Police Scotland had investigative responsibilities, as did we, but we were trying to impress on the family that there was no suggestion that there was any wrongdoing on behalf of Police Scotland at that point in time, but that the purpose of the PIRC investigation was to establish facts of what had occurred and that an evidence-based investigation would follow which would determine the facts of the matter. We wouldn't have provided contradictory information. It may have been described as “supplementary” in terms of explaining our role. In circumstances like this, where there had been a critical incident where a person's life had been lost, the matter

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would be in line with legislation, had been referred to the PIRC automatically by the powers that be within Police Scotland.

148. I have been shown the entry in the FLO log which notes that Investigator Lewis spoke to Ade Johnson at the door before leaving to "placate" him and explained PIRC's role. (PIRC-04150). I have been asked if I was privy to that conversation. I believe that Alistair and myself were at the door with Mr Ade Johnson at the time. I would regard at that at that stage Ade was certainly the spokesperson for the family. That wasn't something that was necessarily brought around by Alistair and I, but perhaps instigated by Mr Johnson. What was said to Mr Johnston was a reiteration of what we had maybe gone to lengths to explain to different persons within the house. I think it was more or less an explanation, or a further outline, of what we made efforts to explain and various people had interpreted it in different ways. I got the impression that some people's command of the English language wasn't quite as advanced as others were. There were occasions I'd go so far as to say that it was chaotic in the sense that you didn't really know who you were speaking to. Is this a relative? Is this someone who has come in from the street? Is it a neighbour? And you were being asked multiple questions at once. It was a further effort on behalf of Alistair and myself to get across the significance of our role, the purpose of our role, and to give some assurances to Mr Johnson that there was the recognition that Mr Anwar was the representative for the family and that contact would be made with him. I remember that Mr Johnson was quite insistent, and we didn't have any issue with this - that he, Mr Anwar, also be kept informed as well. It's a number of years ago and my memory is a bit sketchy. It was certainly calmer when we spoke to Mr Johnson at that juncture than it had been previously, within the house.

149. I have been asked about my impression that some people present were neighbours or members of the community and some people were family, and if I was introduced to people. The best way I can describe this - there was one stage that Alistair and I stood back-to-back in the middle of what looked like a front

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reception room within the home. Why I state that I formed the opinion that there was people outwith the family present was because I do recall a conversation with one lady who was present – she was a blonde-haired lady of slim build, I can't say more than that – and she said, "I'm one of the neighbours from down the street. This is terrible what seems to have happened." I remember the conversation along those lines. As to the identity of the woman in question, I don't think I asked her. I accepted that she was a neighbour and, clearly, she must have been there with the consent of the family, so I didn't question her reasoning for being there, but she made it clear that she wasn't a family member, that she had come from the neighbourhood, and I presume she was on reasonably close terms with the family.

150. I have been asked if, at this meeting with the family, if anything was said about the post-mortem having taken place. I don't recall that being mentioned. That's not to say that it wasn't referred to, I just don't recall.


151. I have been asked if at the meeting with the family anyone from the family raised any concerns to me and Alistair Lewis that race had played a role in what PIRC was set to investigate. I don't remember anything being suggested at that time by anyone present that suggested that race - within whatever context - was a motivating factor behind what had happened. I don't recall that being the case, and certainly I most definitely didn't proceed on the basis that that could or would be the case. It was managed and dealt with the way any other matter of its kind would have been. It was significant in respect of the numbers of people that were present. I don't think I've ever dealt with a situation, a first meeting with a family, where there had been quite the numbers of people present – not before and not since. That was the thing that differentiated it. There were white people present and there were black people present, but I don't recall that that was ever something that would suggest that the upset seemed to be about race. I do recall a conversation about Mr McEwan coming to the house in uniform. This wasn't said, but I got the impression that he seemed to be matter-of-fact in how he had

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gone about making the delivery of a statement made on behalf of Police Scotland rather than empathetic with those present, and this seemed to cause the upset. I want to reiterate this point: that the onus, I believe, on Alistair and I, was to outline the role of PIRC, why PIRC were involved and how we had come to be involved, and that was the focus. I don't remember challenges about questions being raised about what had emerged from any post-mortem examination by a pathologist or anything of that nature.

152. I have been asked when I learned that Sheku Bayoh was Muslim. I can't say for definite when that was established. To the best of my knowledge, it may have been information that was provided very early doors to the senior management within PIRC at the time of the referral. I can't say when for definite I became aware that that was the case. What I can say: I was most definitely aware of that information by the time that I was present at the Edinburgh mortuary when the family came to see the remains of Sheku, and there were issues about how Sheku was to be presented because of the intrusions associated with the post-mortem that the staff at the mortuary had made us aware of in advance of the family seeing him. Sheku was displayed to the family from behind a glass canopy, and skin had to be repatriated to his body, which had been removed consistent with the PM process and so on. He had to be prepared to be, what we would say in Ireland, in a state of grace, which doesn't clearly relate to the Muslim community – not using such phraseology – but I was aware by that stage. As to his level of involvement, whether he was deemed to be practicing or not, I couldn't say.

153. I have been asked about the entries for calls on 4 May in the FLO log that were written up on 5 May 2015 (PIRC-04150). I have been asked if it was standard practice that FLO log notes wouldn't be made contemporaneously. Operationally, I'll go so far as to say it would have been very difficult for either Alistair or I to have made a contemporaneous entry at the time and there's a number of reasons for that. I do recall that we were very busy, and there would not have been the time to have either made notebook entries, FLO log entries, consistently as we

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progressed. It was clearly completed, by Alistair or, indeed, myself on occasions when it was appropriate, when there was time to attend to it professionally. Sometimes I don't believe that there's a huge advantage in making a contemporaneous entry at the time. In fact, some advice that I've received over the years would migrate from that notion, which suggests that it is sometimes better to reflect and then make the entry when you have a clear mind to do so.

Evening of 4 May

154. I have been asked if I attended, with Alistair Lewis, a meeting with some senior Police Scotland and PIRC staff at which there were discussions about releasing certain properties back to the family. I seem to be of the belief that we had met with senior Police Scotland officers beforehand - when ACC Nicholson was present. The purpose behind that was to introduce ourselves and to explain that we had been deployed and to identify ourselves. I don't think they were remarkably interested in the fact if I'm being completely honest. "Aggravation" is maybe a bit of a strong term to use, but it seemed to be very much a case, "Well, PIRC have their role and we have ours." Not sure about a meeting afterwards. That's not to say that something didn't go ahead, but in terms of the chronology, I don't recall.

155. I have been asked if I had any awareness of PIRC making contact with the Sierra Leone High Commission. I do recall reading about that, but I wasn't involved in it. I would imagine maybe Mr McSporrان would have had involvement with that, but that would have been something which would have been attended to by somebody in a more senior position than Alistair or myself. I was aware that there had been contact made. As to when, I did see notes that confirmed that - that may have been because I had access to the policy log for the SI, or that I was made privy to information contained in it at one of the briefings. There were a lot of briefings, as explained. Billy Little took on quite a significant role in the coordination of actions and briefing staff and it wouldn't have been uncommon for

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Billy to have relayed that sort of information, for example, but I do remember being aware of that. As to exactly when, if it was on the 4 May, I can't say for definite if that was the case.

The family learning about the post-mortem and viewing the body of Sheku Bayoh

156. I have been asked about Investigator Lewis speaking to Aamer Anwar at 14.20 on 5 May as noted in the FLO log. Aamer Anwar is noted as having said he spoke to the Lord Advocate who had assured him that the post-mortem would be put on hold. (PIRC-04150) I am asked if I recall this call being made or if Investigator Lewis spoke to me about it afterward. I can't remember the call being made. I do remember being aware that there had been issues in regard to the family and their attendance and that there was a conflicting piece of information, that there was the intention to proceed. Whenever the family came to the Edinburgh mortuary to see Sheku's body when it was present, the PM clearly had gone ahead in advance of that, so that was post-PM. I don't remember being present when Alistair would have discussed this with Mr Anwar on the phone. I can't say that I was present. I am aware of some of the issues that are being referred to here, the potential delay, but I can't say how.

157. I have been asked about the attendance of members of Sheku Bayoh's family at Edinburgh City Mortuary to view his body. I have been asked how the family would be prepared for viewing a body. I remember a conversation that I had with a female member of staff at the city mortuary and she had talked about the difficulties. It was apparent to me that there was a complete willingness to allow this viewing to go ahead, but what seemed to be of concern to the staff member I spoke with was that there had to be further intervention in regard to Sheku's remains to make Sheku – to put it in layperson's terms – presentable to his family. The skin had to be repatriated to the body and there would have to be time to do that and to do it as professionally to not cause concern to the family. We

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accompanied the family and explained what they would encounter; how Sheku would be presented to them. I've got a recollection that whilst he was behind glass - it was curtained whereby, I believe, the curtain was closed. It was when the family were sufficiently assembled and had been put on notice of what to expect, then it was at that point, with the assistance of the mortuary staff and with Alistair and myself present, that they were then shown Sheku's body. Sheku was only visible from above shoulder height and that was it. It was head, neck, and upper shoulders, from memory. The rest of his body was covered fully as he was shrouded by dark-coloured blankets.

158. I have been asked if there were any visible injuries, or if any comments were made by the family about seeing any injuries or anything they perceived as an injury. All that was visible was Sheku's remains from shoulder height upwards. I don't recall that I saw anything. His head was leaning slightly towards the right whereby his face was positioned facing onto the innards of the glass canopy. He wasn't laid flat, but slightly positioned to one side. I believe that was to facilitate the family in being able to view both sides of Sheku's face. Personally, I didn't observe any injuries to Sheku's face or the part of his body that were visible. I do remember that the family were very upset. There were at least half a dozen members of the family present, not all of whom I can recall the identity of. There were some comments that were made by a family member, which suggested that someone was going to pay for what had happened.

159. I have been asked if I heard the comments made myself. I did hear comments. I can't state the precise phraseology, but my interpretation of it was that there was mention of someone who was going to pay for what had happened. I do believe that it was stated that, and it was by a male member of the contingent, "There will be trouble. There will be trouble," which was reiterated maybe more than once.

160. I have been shown the incident message form completed by Investigator Lewis stating that during the viewing a brother-in-law of Sheku Bayoh had made

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comments to the affect that there would be violence as a result of Sheku Bayoh's death. (PIRC-03716). I was aware that Alastair was going to input that information himself. Alistair had stated that he would take responsibility for submitting that, seeing to it that that was processed. I don't remember exactly it being that, that "There will be violence." "There will be trouble", I remember it was the suggestion there was going to be some kind of public unrest that would arise from Sheku's death for reasons that the family had interpreted. I understood that it was the families belief that there had been wrongdoing on behalf of the authorities and that there would be retaliation for that. That was my interpretation of what was being said at the time.

161. I have been asked about incident messages as a tool. Basically, the way that would normally work is that the completed form which you have here would go to the intelligence cell and a decision would be taken. A determination then would be taken that that intelligence information would pass to Police Scotland. There would be an onus on PIRC to ensure that Police Scotland were made aware of that. In the event that there would be insurrection or trouble within the community arising from Sheku's death, that would be the reason, because Police Scotland would clearly have to have contingency plans in place to deal with any public unrest that could have potentially arisen. That would be the chain-- the sequence of events, and not all information like this would pass, but there would be an expectation, as there was here, that that information would be provided by way of a narrative, and that that could potentially then find its way to Police Scotland. PIRC don't have the capability or capacity to deal with public unrest so that would be a matter for consideration by the authorities within Police Scotland.

162. I have been asked who within PIRC would then be looking at this form or potentially taking that decision. It wouldn't have been Alistair or myself. The responsibility would have been on one or other PIRC officer to ensure that the information was brought to the attention of the authorities within the PIRC. I would envisage that someone like Mr McSporrان or Mr Casey - at SI grade - would have


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taken the decision and would have ultimately made a policy decision that that information passed to Police Scotland. What I'm trying to remember is if there was an intelligence cell within PIRC. I can't recall who, specifically, would have had responsibility for this.

163. This comment is not recorded in the FLO log entry for this day (PIRC-04150) I have been asked if I would expect that this comment would not be entered into the FLO log, or if I would expect to see it in the FLO log entry for that day. It could have been included. The fact that it's not included is possibly down to that it could be deemed potentially sensitive information that would have been deemed less suitable for inclusion within the routine FLO log. That's a theory as to why there isn't a duplication within the FLO log. There's no precise science on what should be included in the FLO log and what shouldn't. It may have been necessitated that it went on the contact sheet as opposed to within the realms of the FLO log, but there is a sensitive nature to it. It deals with the suggestion that there is the potential for public unrest, "There will be violence," and so on. There's a greater sensitivity accorded to information like that, and perhaps it was deemed better-placed on a contact sheet and a record of it retained there rather than within the FLO log.

CS PAVA forms


164. I am shown a Clue2 entry from 2 November 2015 in which I noted that I had been informed by William Little that I was no longer required to complete an action related to obtaining CS Spray/PAVA discharge forms from Police Scotland in connection with the spray discharge on 3 May. I noted William Little had instructed me this action was not required following further contact with Police Scotland. (PIRC-02926) I have been asked why those forms were no longer required. I believe that I had contact with a sergeant within Jackton, who referred me to a female chief inspector with a view to me obtaining this information. Whilst it would suggest here that I was stood down, to the best of my knowledge, I have got a

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recollection of having, at least in part, processed and actioned this matter insofar that I made contact with staff within Police Scotland with a view to obtaining this information. I can't remember the name of the lady concerned, but I do recall that she was a chief inspector, with a view to the provision of this information – force forms, PAVA/CS spray forms – pertinent to the incidents involving Sheku being made available to the Police Investigation and Review Commissioner. Whether I was the recipient of that, I can't recall. I can't say why my involvement with it was discontinued.

165. I am asked, in a PIRC investigation directed by COPFS, if there is a legal requirement for incapacitant spray forms to be completed by Police Scotland / its officers and submitted to PIRC. I had the responsibility within PIRC to make an assessment of all non-conventional firearm referrals. I was part of the team that drew up the memorandum of understanding between Police Scotland and PIRC in terms of the provision of that information. Any time that there was a discharge, for example, of CS or PAVA spray there is an obligation on Police Scotland to inform the Police Investigation and Review Commissioner. To facilitate that, there was a pro forma drawn up which clearly dealt with the discharge of the CS or PAVA. I think where the confusion had arisen was in that Police Scotland, a lot of the time, were recording this information only in the Use of Force form, which wouldn't necessarily be submitted and then, equally, there would be no record in PIRC of there being a discharge of CS spray or PAVA, so things were put in place to ensure PIRC would be informed of CS and PAVA discharges.

166. There was the legislative requirement for this information about the discharge of PAVA or CS to make its way to PIRC in order that it could be assessed. Even in routine cases of usage, an assessment would be made to determine whether an investigation into the discharge of what is a firearm at the end of the day would need to be conducted. A lot of that information, certainly early days in PIRC, got lost insofar that Command and Control indices, which is the electronic recording of incidents and Use of Force forms, unless there was a complaint, wouldn't have

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been requested and wouldn't automatically have been referred to PIRC. Reference to the discharge of PAVA or CS would be included within that, but PIRC certainly didn't receive all of that information until there was a further review carried out of the various indices, which revealed a deficiency in terms of this information being made available. I know that it was definitely incumbent on Police Scotland to make PIRC aware of this; that there was a legislative requirement to do so. this incident would have been no different, given that there's a legal requirement to do so.

167. I have been asked if I had previously encountered a situation where officers themselves hadn't completed that paperwork, so it could not be passed to PIRC. It was commonplace. There had been a clear failure – failure is probably the best word – which probably arose from there not being the practice established within Police Scotland to do so. I think a lot of operatives within Police Scotland felt that if a record was kept in a notebook or in a Use of Force form in relation to the discharge of PAVA or CS, that the job was done in terms of making the appropriate records, but clearly that's not the case because the discharge or firing of conventional firearms or unconventional CS/PAVA - there is a legal requirement that the PIRC be notified of that and had been since the inception of the Police Investigation and Review Commissioner.

168. I don't think Police Scotland deliberately tried to subvert the process. I think it was because Police Scotland was a new concept. One of the reasons I would have envisaged why this information wasn't readily made available was because of legacy services, for example, perhaps in Lothian and Borders they did things differently from how matters were managed in Strathclyde. I know it emerged in terms of the work that I did that there had been a deficiency in terms of the numbers of these matters that should have been reviewed. It was established that they hadn't been referred in order to facilitate that review. Retrospectively, I think myself, with some assistance from some other staff members, had to make an assessment of quite a number of CS/PAVA discharges. It was extended into

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the hundreds of cases where there hadn't been a referral by way of a PAVA/CS spray discharge form and it had to be done retrospectively based on a review of Command and Control indices, Use of Force forms, radio transmissions, maybe officer notebook entries.

Early communication with the family and their solicitor

169. I am told there was a meeting with the family at their solicitor's office on 6 May. I am asked if it is accurate that I attended the family's solicitor's office but remained outside during the meeting. I remember being en route with John McSparran, William Little, Alistair Lewis. I think we were in the same vehicle, and there was a telephone call, if I remember correctly, received from Mr Anwar's office. I think William Little took the call, and we had met with Mr Johnson shortly before this. I had spoken with Mr Johnson, as had Alistair, and I remember Mr Johnson had said to me at the conclusion of our conversation, "I will see you at Mr Anwar's offices in Glasgow, down by the river," and I remember being in the vehicle then with my colleagues and a telephone call came through, at which point there was a conversation between Mr Anwar and, I think, Billy Little. I got the impression, the conversation was made by Mr Anwar with Mr Johnson present, there was a decision taken then that we were going to go immediately to Mr Anwar's offices in Glasgow. I remember it being stated that there wasn't a sufficiency of room in the office for everyone and it was decided that the meeting would go ahead and that I wouldn't be present at the meeting. I was a bit annoyed about that, to be honest, but I remember that being the case. I remained with the vehicle for the time, basically, that the meeting took place, which was at least two hours.


170. I have been asked if this had any impact in terms of my role in the investigation or as a FLO. I was still involved in the investigation. I still took statements from people, but I kind of got the impression at that point in time that my involvement was being scaled down. No one actually said that, but I got the impression that a decision was being taken that Alistair was going to go more independently after

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that and that I would be working on other cases because there were other things that had come in, and I think they needed to free up staff. That is consistent with any sort of major incident team. People become less involved and prioritise other matters. I was never presented with a reason as to why that was the case, other than that the office was going to be too cramped and that I couldn't attend on the basis of that.

171. I have been asked what gave me the impression that Alistair Lewis might be taking forward the role of FLO more independently. The fact, I think, that basically Alistair continued to have involvement with it, certainly more than I did. I think what had come as a bit of a surprise was the comment that was made that Ade Johnson had asked for Alistair and not me, but what confused me about that was the conversation that I had had with Mr Johnson, which was, "I'll see you at Mr Anwar's office." So, I'd fully expected to be part of the complement that met with Mr Anwar and obviously members of Sheku's family – Ade Johnson clearly being there – and that didn't happen. I suppose I kind of felt a bit marginalised, but that's maybe me just being paranoid about things and the matter continued with Alistair, who clearly had more of an affinity with some of his previous Police Scotland colleagues than I did. I don't know whether that was the reason or not. I can't say for definite.

172. I have been asked if I can recall who made the comment that Ade Johnson may have asked for Alistair Lewis to attend. Billy Little did. He did so in the car because I think I expressed some dissatisfaction about as to why I wasn't going to be included in the meeting and I think Billy Little said, "Well, he's asked for Alistair." What kind of surprised me about that was is that I think I was the last person that had spoken with Ade Johnson when we'd had a previous meeting earlier in the day and he'd emphatically said-- not in any threatening manner, but quite respectfully, he'd said, "I'll see you later at Mr Anwar's office." I remember that being stated.

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173. I have been shown the Operation Quoich Policy Log which at decision 37 records that a decision was taken by PIRC on 27 May 2015 that PIRC would not correspond with the family via text or email (PIRC-04153). I am asked if I was involved in this decision and what the impact of this was. I do remember that Mr Johnson had sent in a list of questions to Alistair. I think Alistair had principally become the conduit. I've got some recollection that Ade Johnson put a timeline on when he had an expectation that there would be a response to some of the points that he had raised, and one of the things was definitely whether all the officers had complied with requests made by PIRC to make themselves available for questioning or to provide statements in relation to their involvement with Sheku. That was certainly one of the matters. There was also the focus as well that Mr Johnson was trying to steer PIRC away from, as he believed, PIRC's propensity to look at Sheku's lifestyle, his involvement with other associates, his personal life, his previous social interactions and so on and his medical history that led up to events. I think Mr Johnson was frustrated, given the questions that he asked, that there was a perception that PIRC were perhaps focusing on that and not focusing on how Sheku had met his death, following contact with officers from Police Scotland. I do remember discussions about it, but I didn't receive any emails in regard to it from Mr Johnson, or from Mr Anwar for that matter, and I think Alistair was the conduit for it. That probably came off the back of the meeting that whatever was reaffirmed at the meeting that we discussed earlier, at Mr Anwar's office when I was outside.

174. I have been asked about the discussions that I mentioned about the views of Ade Johnson that the investigation was looking at lifestyle of, rather than the death of, Sheku Bayoh and if those discussions were within PIRC or with the family. I do recall that at one point Mr Johnson had raised a series of questions that he wanted PIRC to comply with, and there was the inference that he wanted to steer the PIRC away from this check on Sheku's lifestyle. He didn't feel that that was something that PIRC should be doing or that it was pertinent to the type of investigation that PIRC should be carrying out. There was discussion about it

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within the briefings that I've referred to. There were discussions about this matter that staff were made aware of. I think everyone, to some extent, that was available played some part in this investigation in the early days/weeks, so it was relevant to basically all staff. Other matters had been placed on the back burner. There were no dissatisfactions expressed about this, but it certainly seemed to be the fact that Ade Johnson – I don't know whether that was a result of discussions that he'd had with Mr Anwar – didn't favour what he believed to be a propensity by PIRC to try and establish information about Sheku's lifestyle and who he consorted with, and did he have any medical issues prior to events from when police contact with himself occurred. He didn't want PIRC to focus on that and thought that that was wrong based on the questions that had been asked. I think that, in any case, establishing information about a person's lifestyle and who they consort with, and do they have any medical issues - that that's very pertinent to any investigation where a person's life is lost following on from police contact in some way, but maybe Mr Johnson felt differently about that. Whether that was influenced in any way by Mr Anwar, I can't say with any certainty at all.

175. I have been asked how that information I would seek to establish in every case about a lifestyle feeds into the investigation where life is lost. Basically any investigation that I've been involved with and am currently involved with, where a person's life has been lost following police contact - it would be a negation on the part of anyone leading an investigative team, a senior investigator, not to establish pertinent facts about the deceased's lifestyle, what they engaged in in their private life, details about their medical history, because those factors can all be contributors to perhaps why a person lost their life, or was more likely to have lost their life, in a situation where they've been involved with police officers at the time of their apprehension and whatever. To not have regard to that would be tantamount to a failure in duty, in my opinion, on behalf of an SI or an investigative team. That is fairly fundamental: what state of mind the person was in at the time? Not specifically talking about Sheku, but did the person have a history of mental illness? Did the person have a history of misuse of alcohol or other drugs

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or narcotics? Was there a trauma that occurred in their life that could have necessitated that they behaved in a certain way? Those are very fairly fundamental type points that information and evidence in relation to would have to be teased out. This was clearly no different, nor should it have been any different, from any other case.

Taking statements from family members

176. I am shown the FLO log for 8 May at 10.30 when Alistair Lewis and I met with Collette and Lorraine Bell at Lorraine Bell's home address. The FLO log indicates we explained the role of PIRC and the FLO to them both. This statement taking took from 10.30 – 15.15 with a break between 12.00-13.30. (PIRC-04150) I have been asked if this was the normal process and length of time that I would expect a statement like that to take. Yes, I think the whole time that we were there wasn't necessarily devoted to me taking the statement. I think we explained more about our role and provided them with some sort of update, without compromising the integrity of the investigation, as to where we stood on the matter. Collette and her mother - there were certain things that they were anxious about the process to some degree, and we wanted to try and instil a notion that we would persevere with it, that we would take our time and that there would be no pressure. I think it was made clear that if she didn't wish to complete the whole process of the statement being taken in one session, that we could revisit. It was all about ensuring that her welfare needs were attended to. We eventually got down to taking the statement, which was clearly in relation to her knowledge about Sheku and the type of person that he was, the type of man that he was, you know, as a father, as a partner to herself, what he enjoyed doing, just to give some insight into the individual that we felt pertinent to the investigation. I don't think that that's abnormal in terms of the amount of time that it would take. There were periods during this that Collette needed to take refreshments and needed to take a break, so we didn't continually thrust this whole matter through between 1330 hours and

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1515. There would have been opportunities for Collette to compose herself and to re-evaluate things and to take breaks etc.

177. I have been shown Collette Bell's PIRC statement in which she notes that there were inaccuracies in her Police Scotland statement. (PIRC-00028) I have been asked if those inaccuracies highlighted gave rise to any kind of further investigatory steps for PIRC. I'd be speaking very hypothetically if I said I knew that the completion of this statement resulted in any further actions being raised. There's the potential that it may have led to further lines of enquiry being bottomed out, because if there is a disparity, for example, between what is stated in a Police Scotland statement and then information that was provided to PIRC, there may be some considerations around that in terms of determining how that could be the case. I don't remember if anything more was raised in respect of it, my anticipation would be that the receiver, who I think was Iain MacIntyre assisted by Laura White - anything that came into the inquiry team by way of a statement would be reviewed and we would have spoken about what emerged during the course of the taking of the statement at any subsequent review. The reviews were conducted quite regularly, and the powers that be – the senior investigators within PIRC – would take whatever action that they would have felt necessary to do so.


178. Collette Bell's statement includes details about others being disapproving of Sheku Bayoh and Collette Bell's mixed-race relationship and that I asked for details of Sheku Bayoh's view of the police. (PIRC-00028) I have been asked how these details would be relevant to the PIRC investigation. I suppose, it would be to determine, if someone had an agenda, I suppose that would suggest then that they wouldn't be receptive to any interaction that they would have had with police. Perhaps that's the reason why the matter was raised. I want to reiterate this: whilst we're dealing with a specific incident in this case, this would be something that would be pertinent to any investigation of this kind. Certainly in Northern Ireland, if it's known that someone is completely anti-police and has no respect for police, there is some inference, perhaps, that could be drawn from that? If

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there's any evidence to suggest then that the person was fairly vociferous about not interacting with police and not taking heed of instruction from operational officers when the interaction took place.

179. I have been asked what I mean when I say in my notebook that the statement was later "dispatched" at the PIRC office in Hamilton. This was using flash language to say something straightforward. I envisage this statement would have come about as an action that was created on Clue2 that was allocated to myself. The receiver within the office was Ian MacIntyre and I think it was Laura White, another former colleague of mine, that were involved in dealing with the information as it came in. What I mean by "dispatched" is it would have been taken to Ian MacIntyre or Laura and passed to them. They would have marked then the statement as received with a tab attached that would have said, "Statement completed," and review maybe to be carried out or whatever, but my understanding is that any of this stuff that came in was retained in its hard copy format, then it was scanned and placed on the Clue 2 relevant to the operational case, and this would have gone into the statement section, "Collette Bell, data obtained by John," words to that effect. There was a naming convention for most of these things. There was a room set aside, and when I arrived back it was just quite simply handed over to Iain, and he took it from there, basically. That's, from memory, what that means.

180. I have been shown the Family Liaison Policy which states "given the potential for compromising the FLO's relationship with the family and to minimise the chances of a challenge to the integrity of the evidence recorded, FLOs should only be asked to interview significant or vulnerable witnesses in very exceptional circumstances following full discussions on such matters with the SI)" (PIRC-04460). I am asked if any consideration was given to other investigators, other than the two of us as deployed FLOs, taking statements from the family of Sheku Bayoh. From what I can recall where the family were concerned, the people that we had contact with – obviously Collette and Lorraine, Ade Johnson, Kadi,

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Sheku's mother – it was either Alistair or I that took those statements. I can't say with any degree of certainty that other staff members took statements from family members. I don't recall if that was the case. You're dealing with vulnerable persons. There is the facility whereby ABE or special measures should be considered in certain circumstances, you know, for that to be attended to within a specialised environment. If someone's deemed particularly vulnerable, be it on the grounds of age, for example, whether someone very old, very young, mental health issues, other related health problems that may exist, could necessitate the matter be attended to by way of Achieving Best Evidence procedures. I don't recall that this was deemed to be necessary in the circumstances where we took statements from Collette or Lorraine. The only thing I do have a recollection of is that Sheku's mother - I don't think she had the grasp of English language that maybe some of the other family members did. Someone attended in the capacity of an interpreter in regard to that to assist with the process of taking that statement, but primarily I think that it was Alistair or myself that took the statements from the family. Now, as to what may have happened in the time after I had less involvement, I can't say for definite if that was the case or not, but the statements I remember taking were from Collette and her mother and perhaps Sheku's sister.

181. On 13 May Alistair Lewis and I went to the home of Ade Johnson, where in the presence of his wife Kadi Johnson, Alistair Lewis recorded a statement from Ade Johnson (PIRC-00106). It was also the case that a statement was obtained from Kadi Johnson in the presence of Ade Johnson (PIRC-00252) and Lorraine Bell was present when Collette Bell was interviewed. I have been asked if any consideration was given to the appropriateness of witnesses being present when other witnesses were interviewed by PIRC. I would say there could be inference drawn from the fact that another potential witness in both these circumstances were present, but equally, what was apparent is that, in order for these statements to be taken, I think certainly in the case of Collette, she most definitely and emphatically wanted Lorraine to be present. I suppose it was consideration

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around compromise of the investigative process and the welfare of the person concerned. The first thing that was apparent to me was that these people, certainly Collette, Lorraine and Kadi and Ade, they're all very closely related, so in any event, what are we realistically protecting? These folks can clearly articulate to each other what they've included in a statement, so I didn't see that anything was going to be gained from being insistent that we get someone non-connected with the family or in a witness capacity with the investigation brought forward. Who was that person going to be? Would that facilitate the process in any way? I didn't see that anything was going to be gained from an insistence on that and the barring of certain people from being present when statements were taken.

182. In the case of Ade Johnson for every line that was recorded in the statement, Ade made a duplicate entry of his own which he kept for his own purposes so he had a copy verbatim, possibly, of everything that was stated to ourselves when the statement was recorded. So, there was clearly going to be a transcript of sorts of that statement available within the family because, on every sentence, Ade asked for verbatim clarification of what had been stated and then recorded that information himself in a notebook which was his own. We had no reason or authority to prevent that.

183. I have been shown Ade Johnson's statement which alleged that misleading information had been provided by police officers, both to him and Collette Bell, as well as a misleading account of events received from Superintendent Garry McEwan. (PIRC-00106) I have been asked if the allegations made within the statement became lines of enquiry for PIRC and if they were investigated. It would have been incumbent on PIRC for the purposes of reporting this matter to have clearly established, irrespective of what has been maintained, what was propagated by Mr McEwan. It would have been necessary to completely bottom out the full circumstances of this and the time, the place and by whom Sheku was pronounced dead. That goes without saying. Whether that course of action arose

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from what has been stated here, I would very much doubt if this would have been the reasoning as to why we would have gone to check, but it would be incumbent on the investigative team to be clear and accurate about the information being reported here about Sheku's time and place of death and who pronounced life extinct. That would be pertinent to any investigation of this nature, but whether this statement kicked into action that by way of a line of inquiry I can't say for definite. That's fairly fundamental. I don't think that this would have resulted in that being an action which would have been raised by PIRC to establish what's been reported here.

184. I have been shown an action dated 7 May an action was completed to liaise as to the address of an ex-partner of Sheku Bayoh and notes that a "non-FLO" is to complete a statement (PIRC-02831). I have been asked why it would note that a non-FLO ought to take the statement. I wasn't aware of it at the time. I have to say, I was aware that Sheku had had a partner previous to Collette. Collette was aware of that as well, as was Lorraine. It didn't seem to have affected the dynamic between Collette and Sheku in any way. When Sheku was described as a devoted father, it didn't only relate to the child that himself and Collette had had. It related to the child that himself and this lady had had together. I can't state why a non-FLO was regarded as the person best placed to do this. It's maybe because there might have been some intelligence digging in terms of establishing the whereabouts of this lady – that it might have been deemed something which needed to be treated with that greater degree of confidentiality by way of an assurance to this lady to give her some assurance that it was maybe being treated sensitively and with specialist thought in mind, that perhaps this would be given to someone other than the appointed FLOs in the case.

Liaison with the family as to a mobile phone belonging to Sheku Bayoh

185. I have been shown an entry in the FLO log reflecting that on 30 June and 1 July 2015, I contacted Collette Bell with a view to arranging a meeting between her,

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Investigator Lewis and me to complete a further clarification statement. (PIRC-04152). I have been asked what this related to. From memory, I recall that there was an issue in regard to the provision of a telephone that Sheku had that it was believed Collette may have been in possession of. I can't remember whether Collette ever confirmed to me that she did have the phone, but one of the lines of inquiry was to obtain communications devices. I think even Ade Johnson flagged this up as an issue as to why PIRC wanted it. I know that Collette perhaps had access to that and that this may have been part of my efforts to make an arrangement with Collette to obtain what would have been a continuity statement in respect of Sheku's phone, to obtain that from her and bring that piece of evidence then in for consideration by the Inquiry team, but that's bit of guess-working there. I could clearly state why the phone was important, and equally I could state why it would have been important to Collette for different reasons. This is a phone that perhaps had communications on it that she shared with Sheku. That would be of sentimental value and people who are in a close relationship say things to each other that we don't want other persons, even investigative staff, to be privy to. That's why Collette would not have wanted maybe PIRC to have it, because it was of sentimental significance and contained personal information, perhaps, about contact she had had with Sheku and indeed other personal information that Sheku shared with all the members of his family and his friends so that's why she wouldn't want to have given it. Why PIRC needed it is, in any investigation, it's crucial to know about a person's lifestyle, and information that can be elicited from a phone could reveal things. Perhaps they have a dependency on alcohol; they have a dependency on drugs; could potentially be in some degree of financial difficulty; could be under threat from other members of the community. It could be anything.

186. I'm not stating that that was the case where Sheku was concerned, but generally any media device is required for those purposes. Had I been the SIO on this case, I would expect the inquiry team to harvest everything. Unfortunately, some of those interactions can be nefarious and can affect how a person goes about

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living their lives and so on. It's pertinent to have that, but trying to explain that to somebody who's been very recently bereaved and was clearly in love with someone who was the father of their child, I can appreciate why Collette might not see that that's important at all, or that that should override her rights as a human to have something which is of sentimental significance and value held in her own possession. I would want that information and quite early doors during the golden hours it's essential to harvest that information because service providers have a limit to how long they retain this information, and there are legalities that apply as well in respect of how long that information can be retained for. That stuff should be harvested expeditiously and there should be an action put in place to get the hold of it as soon as possible for the reasons I've just stated.

187. I was requested to liaise with Collette in order to try and obtain the phone and then Collette told me that she had passed it to Mr Johnson. I can't remember if there was an action raised for anyone to obtain the phone from Mr Johnson. I don't remember liaising with Ade in order to have that phone made available to PIRC personally. The fact that it changed hands doesn't evidentially reduce the value of obtaining that information or the need to obtain it. Collette hasn't said she's destroyed the phone. She's merely stated, "I've passed it to somebody else," so it remains a line of enquiry. If I was directing upon the case, I would ensure that an action was made as to liaise Mr Johnson with a view to obtaining Sheku's telephone.

Relationship with the family and their solicitor


188. I have been asked about a meeting on 29 May between the family, their legal representative and PIRC and if I attended this meeting. I don't think I was at that meeting. I never met Aamer Anwar as a result of this case. I may have spoken with him on the phone in regard to information that he wanted to make all our staff aware of, but that would have been the extent of it, we never met.

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189. I have been asked if I attended a meeting on 22 June with John McSporrان and Brian Dodd met with Amer Anwar. I don't remember attending a meeting on 22 June.

190. I have been shown a summary document that was produced by PIRC detailing information as to contact between PIRC and the family's solicitor between 1 June 2015 – 1 July 2015 (PIRC-02492(a)). It looks like I wrote that, to be honest. Just from the way I've headed it up. It would be the way I would normally do things. I'd go so far as to say that yes, I wrote this. If the instruction to do this came from the Head of Investigations, and I can only assume that that would be Irene Scullion unless it was Mr McSporrان who took on the role. John McSporrان was an SIO but became HOI, so it could be potentially John McSporrان that had asked me to do that. I have been asked if I have any memory of being given any context to their request for this document. I'm quite confident it would have been made apparent and known to me at the time, but I don't recall what was said. It could be that it was for the purposes of review by the Commissioner Kate Frame as a ready reckoner as to how Mr Anwar had, for example, reciprocated to information provided, and in terms of information that he requested, as to the degree of mutual compliance on both parts. That may have been the reasoning behind it, but I can't remember specifically being told. It may well have been the case I was asked to do it, and unquestioningly I did it without knowing the reason. Sometimes that's how these things go.

191. The summary states that the lack of reply from the family's solicitor had impacted the investigation. I have been asked if I can provide any context to that as to how it impacted the investigation. Looking at this now and based on the narrative, it would suggest that Mr Anwar wasn't forthcoming about corresponding back to PIRC. If that were the case – I'm not saying that it was, but based on this there's the suggestion that it might have been – the investigation would have been impeded because of a non-provision of information, that was required such as a commitment to a time and a place for a meeting. When something is extended

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there's clearly the march of time that comes into play. The recall of information deteriorates over time. That's speculative as to what could well be meant by that, but clearly if there's a disparity in terms of what's required and what's then made available, that would impede and hamper an investigation so perhaps that's what was meant.

192. I have been asked if anyone at PIRC ever raised concerns with Mr Anwar or the family as to this at any point. I do recall that John McSporrان would have certainly been the conduit for a lot of contact with Mr Anwar. John McSporrان had been either the HOI or the senior investigator, depending on what role he was in at this time, but I'm not sure if any of this supposed breakdown in communication, or delay in communication, that this would have been expressly made known to members of Sheku's family, and I don't know who would have taken responsibility for that. The person that would have been best placed to know about it would have been someone like John McSporrان, or even Alastair to some degree, Billy Little perhaps, because I know that principally the person that certainly had the major impact, in terms of what we did operationally, would have been Mr McSporrان - Billy Little to some degree as well but in consultation with John McSporrان. I'm not saying he was a control freak or anything, but he kept a watch on what his staff complement got up to and how they went about it and liked to be kept very much in the loop.

193. I have been shown my notebook entry for 16 July 2015 which reads "Discussions with SIO re contact with Family witness" (PIRC-04199) and I have been asked if I recall what was discussed. I'm not entirely sure. It's a notebook and it wouldn't really record the specifics. I can't say with any certainty. It could be efforts to speak with Collette about the statement with Lorraine, but I can't say with any degree of certainty.

194. I have been shown an email dated 28 July that the family's solicitor sent to PIRC with a list of points, and a further email from 30 July referencing the family's

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“increasing concerns” (PIRC-02499, PIRC-02502). I have been asked if I was aware of this correspondence at the time. I don’t remember being made specifically aware that Mr Anwar had sent this, or that he had sent it to Alastair Lewis. These were points that, I think, Ade had flagged up and Mr Anwar has clearly articulated this on behalf of the spokesperson for Sheku’s family. I don’t know whether this was officially agreed, that Mr Johnson would be the SPOC for the family but I, very much, got the impression that Mr Johnson assumed that role. I’m aware of the points that are being referred to in this email, but I wasn’t aware of how this information had come to the knowledge of PIRC - but the issues looked fairly familiar. The family had concerns that PIRC had not pursued the officers to obtain accounts from them. These were things that certainly I had an awareness of from having attended briefings, and I suppose having retained an interest in the case as well.

195. I have been shown a file note auditing questions raised by the family’s solicitor (PIRC-04134). I have been asked if I have any knowledge of this document and if I know who may have drafted it. I can’t say with any certainty. It looks like an electronic version of an SIO’s policy log. I imagine that some of this would be in the SIO’s policy records as well. I haven’t seen this before.

196. I have been told on 3 September, there was a meeting with the Commissioner, the family and their solicitor and various staff from PIRC attending. (PIRC-04152 p.31) I have been asked if I attended this meeting. I wasn’t at the meeting. Definitely not. I have been asked if I have any memory of anyone feeding back about the meeting to me or learning anything about it at a briefing. Not about that meeting. My only recollections in terms of Kate Frame’s involvement would have been when on certain occasions she attended briefings and, on one or two occasions, I think I gave her an overview of the involvement of the FLOs. There was also an occasion, if I remember correctly, where she appeared at one of the Monday meetings and there was an expectation that I provided her with an update as to what the witnesses had stated in statements provided to PIRC, but I don’t

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remember anything being reported back to staff in relation to what happened. That sounds like a fairly strategic meeting in terms of who was there John Mitchell, Kate Frame, Alastair - who was the FLO that was onwardly involved in this. It wouldn't have been routine for that to have been reported back to 'the rank and file' and I would have been the rank and file, back in those days.

197. I have been shown correspondence dated 22 July 2016 from the family's solicitor to PIRC expressing concern that he had not received any correspondence from PIRC since 12 November 2015 (PIRC-01861). I have been asked if I was aware of this letter at the time. I don't recall clearly this specific letter. I wouldn't have been made privy to this. I can't be time-specific about this, but there would have been mention made at the briefings that - contrary to what has been maintained in this letter - there have been efforts made to appraise Mr Anwar of developments in the case. There had been some degree of, maybe, frustration expressed by my authorities at the time that Mr Anwar hadn't played his role altogether in terms of securing those lines of communication. But as to the date, 22 July 2016, I do know that there were frustrations. They weren't vented aggressively or anything like that, but there may have been considerations in that maybe Mr Anwar was - for reasons best known to Mr Anwar - that he was either ignoring communications or that he wasn't receiving them.

198. That had caused certainly some degree of consternation and frustration with the strategic people within PIRC, Mr McSporran, for example. No one ever spoke ill of Mr Anwar, but I do think that the fact that he seems to be stating here that he hadn't received correspondence or hadn't been updated, that might have been viewed or classed as a bit of an embellishment within PIRC. I certainly know that Alastair had moved mountains and made every effort to keep the family and Mr Anwar updated about developments. I know that Mr McSporran would have been certainly no exception to that approach. He would have been very vociferous about ensuring that legal representatives and families, not just in this case, but in all cases that we were engaged with, that people were kept informed and updated

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and that any appropriate information that was required by PIRC was made available by those people to the PIRC. But the letter - I don't remember it.

199. I have been asked what PIRC's policy or practice be in a situation where a family weren't engaging with PIRC, or PIRC couldn't receive a response from their legal representative. I have been asked if there was a policy that PIC would follow. I can't remember a policy being invoked. That's not to say that there wasn't a policy but, you know, there are literally hundreds of policies and SOPs. They're works in progress in any event. I do know that there was always a fine line between being deemed to be intrusive in terms of a family and equally the quest, the necessity to obtain information and evidence. There is a conflict in relation to those two things. How far should you push the envelope in terms of trying to have someone comply with a request that you're making?

200. Certainly, there would be a sensitivity, and rightly so, that would apply to a family. I don't want to be disingenuous towards solicitors, but the solicitors wouldn't have been treated with that same degree of empathy or sympathy in terms of any perceived failing on their part to engage in correspondence and communication with PIRC as a family would. But certainly there would have been ample efforts made, in all circumstances, to get people to engage. I always think this is a terrible term, but it's a term the police used to use, "doorstepping" people. If someone doesn't respond to communication and you've written X number of emails or letters, "Let's doorstep them." Or certainly if it was complained against persons, police officers - you would have gone to the station to make sure that the forms were served upon them, the notifications, etc., and the same would have applied to witnesses. I most definitely know that the lines of communication would have been kept open. That would have been at the insistence of people the likes of Kate Frame, John McSparran, certainly John Mitchell. The office (PIRC) wouldn't have wanted to have attracted undue criticism for not having made every effort to engage with all their stakeholders, be they members of the public, legal professionals, Police Scotland. It may be slightly different with

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complainants and people that have been recently bereaved, but that's not to say it wouldn't have been pursued – it would have been most rigorously pursued in my opinion.

End of my involvement

201. I have been shown the final entry in the FLO log dated 10 August 2016. (PIRC-04152) I have been asked if my involvement in the investigation would have ended by August 2016. It's difficult to say. I can't cite any incident or action, I may have been involved, but I don't think I was significantly involved. Certainly, not anywhere near to the extent that Alastair continued to be. My focus was diverted elsewhere. There were other matters that came to prominence that had to be dealt with, and I would have been involved in some of those things. It's quite simply that there were other priorities along with this operation and I was most definitely involved with those.

202. I have been shown the Family Liaison Policy which required an 'exit strategy' for the FLO team. (PIRC-04460 and PIRC-03885) I have been asked if there was a FLO exit strategy in place at PIRC in this particular case or if they were used generally in other cases. I can say with certainty, that there was an exit strategy employed in another case that I extensively worked on where a male had burnt to death in a property in Glasgow, following there having been police contact. I was very involved in that case and had taken statements from his next of kin and family members. I had also done a visit to the locus where the man lost his life, to enable the family members to retrieve items from the property that were of value to them sentimentally, and why I'm mentioning that case, there was a clear strategy put in place where another appointed FLO, in that case a fellow called Ross Stewart, and I visited the property of the next of kin to explain that we were exiting and that the matter was to be concluded and that there would be no further contact from ourselves, and that she was afforded the opportunity to ask any questions, and informed that the lines of communication would be left open, but

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it was made abundantly clear that operationally we would not be further involved in the investigation, that it had been concluded from our perspective, and we wanted her to be clear on that and have some degree of agreement and consent from the person concerned. That was in line with what's enshrined within the policy at the time within PIRC, which I had a part in the original drafting.

203. I know that it was revised at a later stage, and it was a more succinct, shorter version of it, and in that policy there is the requirement that there be an exit strategy. Did I exit from this, or was there any formal 'white smoke' type moment to kind of denote that? No, I don't remember ever making it abundantly clear or being put in a position where it was expected that I tell any member of Sheku's Family that I was no longer involved. I took it as potentially I could still be involved or called upon at some point in time. What was pertinent to me was that, whilst Alastair continued involvement, he didn't continue to appraise me of his engagements with Mr Anwar, his engagements with the family or even what was going on at a strategic level involving internal staff.

204. I have been asked if there was any reflection within PIRC following investigations where people who had worked on it got together to learn lessons from any particular deployment, generally or in this case. Yes, there would have been. There would have been concerted efforts made in regard to eliciting learning points about what had gone well, what hadn't gone so well, what could be improved upon, how in future circumstances could we do this differently. I remember one case where I had put together a FLO log in regard to another matter that I was involved with and that was held up as an example of good or best practice and as a learning point for some of the trainees that had come into the organisation as a point of reference. One of the things that did arise from it - I think it was maybe considered too prematurely, because it was still ostensibly a live investigation when the book was held up as an example. There had to be redactions made, in regard to the FLO book, before it could be shown to anybody

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that thought they could obtain anything by way of how to go about things appropriately from it.

205. There were regular reviews. Reviews were a daily thing. This case was no exception. Whilst I would not have been involved, I was aware of things that continued with it. I do remember Billy Little, for example, going over to Belfast because I remember thinking, "My goodness, maybe I could be in line to do that job." It was an appointment with a Professor who had an affinity to Queen's University, regarding histology slides and so on. Billy attended to that. Whilst I wasn't actively involved in it, I know that discussions about it continued, a focus continued on it for a lengthy period of time. In terms of the outside inquiry team, that clearly diminished in terms of the numbers and my involvement as a FLO, that fell away also, but I know that things continued to evolve and that those matters were reviewed, and any examples of best practice were taken cognisance of and commented upon and made known to the staff.

206. I have been asked if there was any formal lessons learned process, such as a meeting organised for everyone to get together and specifically reflect or would reflection be more day-to-day and ad hoc. It would have been a combination probably of both. There were staff away days but that tended to be less about work; it was more about team building and this whole notion of synergy applying to the organisation. You maybe met folks from other directorates that worked in corporate services or finance. But did they formalise it? Yes, and sometimes they would have brought a specialist in from outwith the organisation who would have provided some clarity on best practice issues that could have been in relation to anything from production taking to disclosure, scene management. We were always encouraged to attend courses. Best practice was discussed there with members of Police Scotland and other participants on the course. So, it was a combination of both but it could have been as simple sometimes as, if you hear what happened last Friday, we will desist from doing, and from now on we shall do it this way, given legislative requirements, or given what appeared to work on

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a previous occasion. A combination of both. There was an operational need always, which necessitated maybe that there wouldn't be as much time to attend courses as perhaps there would be in an ideal world. Certainly back then I thought PIRC had a relatively small complement of investigative staff to cover the whole of Scotland.

Press coverage

207. I have been shown the PIRC Family Liaison Policy which requires FLOs to apprise themselves of media reporting on a daily basis through close liaison with the media officer (PIRC-04460). I have been asked if this happened in this case. I have to confess that I wouldn't have been wholly proactive in terms of seeking out the media staff to ask them what was going on in a specific case. What was probably more accurate - they would have been proactive in terms of appraising us of anything in the media and that would have been shared with staff by way of weekly bulletins, emails, etc. about coverage that had appeared in the press. We're talking specifically about this case about developments in regard to Sheku Bayoh and the investigation and about the public. I remember emails had been circulated about a public meeting in which someone had written a song about Sheku and had performed it to the family, for example. So, we wouldn't have been so keen to seek them out. It's maybe the case that perhaps we didn't because media were fairly active in terms of their involvement with us. We saw that as maybe their preserve and for it to be incumbent on them to provide us with the information. That's not to say that they wouldn't pick up the phone and ask us like before we put out a statement on behalf of this organisation, "Can I run this past you to make sure this is accurate?" I remember conversations like that too.

208. I have been shown the entry in the FLO log which reflects that on 3 June, I took a statement from Lorraine Bell. The entry notes Lorraine and Collette Bell raised "discontent" concerning press statements, which they attributed to Police Scotland and the solicitor Peter Watson and were "very concerned". The FLO log

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describes “ultimately” they were reminded that the PIRC investigation was directed by COPFS. (PIRC-04151) I have been asked about that conversation and how COPFS’s direction was relevant to the concerns that the Bells were expressing. I think basically what we were trying to state was that the PIRC, as an organisation, hadn’t contributed to what was being suggested by the articles that had appeared in the media. That really we were answerable to the Crown and that we were reported to Crown in respect of this specific case, and clearly that we didn’t have control over what would necessarily be reported by Police Scotland, or any other source within criminal justice, and that, unfortunately, those matters were out of the hands of the Police Investigation and Review Commissioner. I can’t be more specific than that. I can’t remember the verbatim conversation that we had. It probably made much more sense at the time, but that’s just the march of time - I can’t recall.

COPFS

209. I have been asked if I had any involvement in liaising with COPFS. In this case, I don’t recall that I did. I know that Billy Little probably had quite a lot of involvement with Crown. He would have drawn up interim reports that would have passed to Crown about this matter, and that he would have been in liaison with them, but routinely the contact with Crown, they articulated through the likes of John McSporrán, Mr Mitchell, or Billy. I do remember quite a number of visits to the Procurator Fiscal in Edinburgh, where I liaised with them in respect of other cases, but not in respect of this matter.

210. I have been shown a PIRC Policy Log which at decision 34 on 17 May states it “is clear that COPFS are providing information to Mr Anwar the family solicitor, regarding the investigation, post mortem and other findings. PIRC are unsighted on some of these matters and this can undermine and compromise our dealings with the deceased family”. This text was written by John McSporrán. (PIRC-04153) I have been asked if, from my perspective as a FLO, there had been

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anything in my experience where the actions of COPFS had undermined PIRCs dealings with the family. I wouldn't challenge what Mr McSporran has recorded. I'm aware as well that there were frustrations expressed, not specifically by John McSporran, but certainly on some occasions by John McSporran, about a variety of things: the dealings I discussed earlier about lines of communications with Mr Anwar. He's the legal representative for the family, not Crown, but I can clearly see that this would have presented a frustration to PIRC. The reason why this would do so was because equally PIRC was very closely involved with Mr Anwar and the family, and if we're not privy to the most up to date information in regard to developments in the case and what the family have been appraised of, there is the danger that misleading information could be provided to the family. That could be viewed by the family to be an obstruction put in place by PIRC, whereas in actual fact, is because PIRC is not cited in respect of certain information and arises from this poverty of communication between Crown and PIRC. I do know that there were concerns expressed about that there again. I can't be time/date specific about that, but I do know that this would have been something that Mr McSporran would have been vocal about and with some degree of justification. Certainly, on more than one occasion. It would be the case as well that Mr Mitchell would have been aware of such frustrations and would have made efforts to try and remedy this problem and address it and ensure that it didn't become the norm and was nipped in the bud.

211. I have been asked if there were other instances where I had worked on an investigation where the family were being passed information from COPFS directly, in addition to liaising with PIRC. I can't be case-specific - but there were difficulties encountered. There would have been communication in other matters where Crown would have involvement in communication and engaged in lines of communication with SPOCs within families. Sometimes, as an organisation, PIRC was unsighted of that. This narrative by John McSporran goes so far as to say that this could have been applied elsewhere.

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212. The one thing I will say about the Sheku Bayoh case - yes, it was a very significant investigation. I think it was the biggest investigation, certainly in the time that I was there, that PIRC undertook, but it wasn't exceptional in terms of the logistical problems that arose. These were problems pertinent to the dynamics of criminal justice within Scotland, rather than something that was pertinent alone to the Sheku Bayoh case. Can I qualify this in percentage terms? I can't. But this would have been a problem elsewhere as well. Difficulties with solicitors would have been a problem elsewhere. Communications between Police Scotland and PIRC. This case is not unique. Officers not making themselves, for example, available to provide witness accounts early doors in an investigation is not unique to this case. Federation representatives telling officers not to be interviewed, not unique to this case. And on it goes basically. The relatives of the deceased talking to the press, providing statements to the media, unbeknownst to PIRC. This wouldn't be an isolated incident, that happened in other incidents as well. It's relevant and I remember it being discussed about this case, but I remember it being applied to other cases as well.

213. I have been asked in relation to my comment about officers not making themselves available to provide statements, if this was something that I'd encountered in a PIRC investigation prior to this case or following this case. Reflecting on cases that I've been involved with, I wouldn't go so far as to say that they obstructed what PIRC was trying to do, but certainly there would have been delays and there would have been a reluctance of officers to make themselves available in respect of other matters aside from this case.

214. This probably came about, to some degree, when PIRC came into existence after the disbandment of the legacy services there was a suspicion and a lack of understanding, and that possibly came about because, in a relatively short period of time, you had eight legacy services in Scotland that became one. That was quite a seismic shift in the criminal justice arena and that was a big enough shock to the system for some people, let alone the fact that there was in existence

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suddenly a civilian oversight body with the same powers as police that could make arrests and make demand that you provide information. It was all kind of new thinking, and to some degree, this caused a reluctance. I can remember there being difficulties in other cases about folks citing various reasons for why they couldn't make themselves available, medical reasons were cited, legal reasons were cited. Notifications were called into question that had been provided by PIRC as to why these people should make themselves available. "Do you have the legal authority to enforce that?" And there would have been toing and froing about issues between legal professionals and ourselves. I can't give you specific cases but I know that that happened before. I did encounter it afterwards as well in some of the subsequent cases I worked on.

Statements from the 9 attending officers

215. I have been asked about the 4 June 2015 when most of the attending officers met with PIRC and were interviewed to provide their statements. I have been asked about the liaison duties that I and Investigator Lewis carried out on this day. I think the reason why Alistair and I weren't involved in the interviewing - we were the designated FLOs. From memory, there was a lady who worked in corporate services and finance that was also involved in liaison duties on the day in question. The interviews took place, there were interview teams drawn up, they were appointed to take statements from the nine operatives that had had dealings with Sheku. That took place at Tulliallan at the policing college. The role of Alistair, Jacqueline and myself, was more or less to escort the officers from reception to where they were having their statements taken, to ensure that they got there, that they were introduced to the interviewing team, and that we identified the officers then to the person selected to conduct the interviews. We would have facilitated small things, logistical things, when the tea came up, for example. That was it.


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Family Liaison SOP

216. I have been shown the PIRC FLO SOP which was published on 24 June (PIRC-03885). I have been asked if Investigator Lewis drafted this document and, if so, if I had any input into the draft. There was an original draft policy that was drawn up that, if I remember correctly, I took responsibility for. I believe that this was a supplement to the original - this was a more condensed, concise version, which, if I'm being completely honest, steered PIRC away from what was something which was very police focused, to being more a thing endemic to civilian oversight, and was shorter and more concise and was deemed the point of reference for staff. I have been asked if the Family Liaison Policy is the document that I did some work on which was then supplemented with the standard operating procedure. That is correct, yes.

217. I have been asked if when the SOP was published, if I read it, if it was it something that staff were encouraged to read, or if it was a re-statement of principles from the longer policy document. It's fair to say that's a restatement of principles. The prime mover behind this, if I remember, was Irene Scullion, who had been Head of Investigations. She had come in from a senior post within social work. Her view on what we had in place was that it was very police-focused, that it was very similar to similar policies that were in place in England, and that she wanted something more concise, more user-friendly and more immediately useful to staff. I think that was the criteria. So, Alistair came up with this. He did speak with me about it, asked me what I thought as he progressed through it but, fundamentally, it was Alistair's work, not mine. This was made available on the T-drive, from memory, for staff to familiarise themselves with and there was mention made of it at review meetings, at team meetings, that this was the source to be relied upon where FLO deployments within PIRC were concerned.

218. I have been asked if there was a document that Alastair Lewis used as a guide or a base in his drafting. All I can say about that is that Alistair was a


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commissioned officer within road policing. When I say “road policing” within what would have been Strathclyde Police, and I believe that he may have consulted with some of his previous colleagues, or had prior knowledge of documents, because road policing tends to be the element of policing that deal more regularly with fatalities. He might have been relying upon some source material driven by road policing and may have consulted with some of that in order to perfect this document. He didn’t tell me that, but that’s my mindset, perhaps that’s where some of the input for this was derived from.

End of my involvement

219. I have been asked when my involvement in the investigation ended. There would be a bit of guesswork involved in this. I might have updated any self-statement in terms of my involvement in the operation, and I can remember a briefing that was attended by the Commissioner, Kate Frame. I think I gave her an overview of FLO involvement and details of what witnesses had provided in terms of information. Really, I’d be guessing, you know, as to the last sentence I dotted. I can’t recall. I know that I did cease really to be involved after having been involved quite significantly. I can’t put an absolute time scale on that.

220. I have been asked if I have any comments generally as to how family liaison functioned in this case. The very fact that it was a dual deployment, that was a good thing. We were very much – both of us – part of the investigation. Our role was well enshrined within the investigative strategy. The SI in the case saw fit to ensure that there was a family liaison strategy, early doors during the golden hours of what we did, in an effort to obtain best evidence in the case. We were both trained, we both had experience of the role previously, so we weren’t new to the game. My understanding was it was a co-deployment, in the sense that neither of us were assistant to the other. FLO logs were kept updated. They contained the narrative of what we did. I didn’t feel the need to make an entry if Alistair had made one which was sufficient to show that we had both been

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engaged. I think it was consistent with existing policy at the time. There was a hardcopy FLO log kept and managed. To the best of my knowledge, they were reviewed by management. The manual FLO log and the size of it – it's A4 size – presents a problem. Carrying a book around which is that size and making contemporaneous notes in it, expeditiously, can present a problem, but that was deemed the best practice at the time by the various authorities in respect of FLO-related matters.


221. I have been asked if it was usual in a PIRC investigation for the senior investigatory team (such as John Mitchell) to have such frequent contact with the family and their legal representative. I would say that this case maybe marked a step up in terms of the frequency, regularity of contact with the family and their legal representative. There was a lot of intense communication with Ade Johnson, with Mr Anwar, with Sheku's partner, Collette Bell, and other members of the family. I think it was professionally managed, and the narrative will reflect that it was. One thing I will say, and I think this is very important, I don't think that there was any preferential focus on the case for any reason. It was a step up in terms of involvement and regularity. I think that was just because of the nature of the case and the circumstances under which Sheku's death came about but, clearly, Sheku is from a Muslim background and he was a black man. My response was in no way altered by that being the case and I didn't think that it was apparent that anyone else behaved any differently from how they would have, had Sheku been white. There was no preferential treatment but, equally, and this is also important, there was no downgrading of the response either. It was dealt with professionally. Key matters of concern were managed expeditiously. I think every effort relative to the amount of resources that were in place, everything that could be deployed was, and there was sufficiency in terms of briefings, in terms of record-keeping. I felt that, in many respects, given everything considered that it was treated and managed just like any other case, albeit it was the biggest case I think I was involved in during the time that I was with PIRC.

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Race

222. I have been asked what experience I had, if any, of any investigations prior to this where race was a factor in a death in custody or a death following police conduct, or where race was something that PIRC were asked to investigate. It wasn't the case that something had been race specific that I can recall in Scotland. I'm only talking about myself here rather than the organisation. I've been involved in cases whereby there would have been a perceived racial constituent accorded to the case in Northern Ireland and cases with religious issues. I have been involved in that type of thing and clearly had to take account, on occasion, of there being cultural or religious differences. On one occasion I had to get a communicator who would speak to the injured party using the Irish language as opposed to English, but I hadn't previously worked on a case, that I can recall, where I had dealt with the death of a black man or a black person following police contact. So that was, for me, the first of its kind.

223. I have been asked if for PIRC the race of a deceased person, or race as an issue, was something that PIRC would have recorded. The data was clearly captured, but I'm struggling to think how that would change the response. I thought it was more pertinent to consider things like, I suppose perhaps religious beliefs and any language barriers that could have arisen, but Collette Bell, for example, and indeed Ade Johnson, from my experiences of having dealt with them, no one seemed to have any problems in articulating their thoughts and their views. Some matters, quite the contrary. Collette was very adept. I'm not saying that that was in any way racially interlinked, but Mr Johnson certainly had no problem in making himself fully and clearly understood. Potentially I thought, given the linkage to Sierra Leone, I thought that this may create - not so much barriers, but matters which would have to be taken into consideration by PIRC when accommodating these people for the purposes of obtaining the best evidence. I'm being honest in saying that I didn't take account of the fact at all that Sheku was a black man. It didn't alter how I was prepared to go about things one bit. I was determined to

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work professionally in the case, to listen to the needs of the family, to ensure the well-being of the people that I came into contact with, and that would have been the case with a person of any creed or colour. So, it was no different for me in that regard. I didn't give it special preferential treatment either.

224. I have been asked if, in 2015, I had any awareness of equivalent bodies outside of Scotland, such as in England, Wales and Northern Ireland, as to how they would investigate race where it was explicitly contained in their instruction to do so. I had involvement with British Irish RIGHTS WATCH previously, who were an organisation basically that championed victims in cases where persons in Northern Ireland had lost their lives as a result of interactions with subversives or anti-subversives. The only difference, I felt, from those groups really brought about was that it created another tier in terms of who you had to keep appraised, updated, in respect of the investigation. As to oversight bodies, be it the An Garda Síochána Commission in Ireland, PIRC in Scotland, IOPC in England, they're all bound by a professional code of conduct and ethics that takes into consideration racial diversity. All staff within those organisations are trained in respect of diversity-related issues, and that's not a one-off tick box. That is a regular ongoing commitment that those organisations have, PIRC being no exception.

225. There are requirements in certain circumstances, I can't list them all but, in dealing with organisations and dealing with members of the public, there is a requirement to take into consideration to prevent any discrimination with personal requirements and needs and expectations of these people. In the case of the Muslim community, for example there would be an expectation that a man would take the lead, rightly or wrongly, in a conversation. There may not be a willingness on behalf of certain cultural and religious groups to shake your hand and things like this. There would be certain things that would be inappropriate to say, to do, or to communicate in writing to certain religious groups. So, to have a knowledge of those matters is significant but, in the dealings that I had in this case with the families, they didn't make any special requests that they be treated according to

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a cultural identity that they had, and we did try to establish information about that. I was led to believe, from memory, in discussions with Collette and Sheku's immediate family, I don't think Sheku really practiced the Muslim faith, for example, not to any purposeful or great extent. There was a photograph of Sheku, I remember in the media, of him wearing a kilt, very much embracing Scottish culture and so on. I don't think he was a person that would've altogether have defined himself by his religious, socio-economic background or whatever.

226. I have been asked if in the training that I had for my role as FLO, if that encompassed anything about working as a FLO in a situation where the deceased person was black or from an ethnic minority background. Yes, it did. The courses that I had been on dealt with issues where there would be religious, cultural, national identity issues to contemplate in terms of your community impact strategy and so on, and what you have to be aware of. This was one of the things they were talking about when I trained as a FLO coordinator - that was in 2016 when I undertook that course and I had done some refresher training since. March 2021 was the last time. I did my initial FLO training in 2009. All of this training that I underwent, it was sort of embraced and endorsed by national policing standards, and these things were very much part and parcel of the focus that that training was designed for.

227. The thing that was to establish the individual needs of the family, the next of kin. Sheku has origins in the Sierra Leone but his partner appeared to be a Scots woman and so on. So, there was a multitude of interests to take into consideration. It wasn't a case of focusing on just one aspect of Sheku's relations. It was with his family, associates in their entirety. All of what we're talking about is very much the focus of the training that I've had, and to be mindful and to engage in the knowledge that these are matters for consideration based on the individual circumstances that you encounter. That was my understanding.

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228. I have been asked, with reference to the issue of race, if there is anything that, knowing what I know now, I would have done differently or anything PIRC ought to have done differently. I really, in all sincerity, don't think I could have managed things any differently from how I did. It was about listening to what the family had to say, about affording them the opportunity to provided to us, as clearly as they could, the things that they wanted to say. There was empathy shown towards the family, certainly by all the PIRC staff I can think of and myself, in terms of showing them that we were there to establish the facts of what had happened by way of an evidence-based investigation. At no time would I have told them that they were going to receive preferential treatment because of their community background or due to the religious status of Sheku or anybody else in his family but, I think it's fair to say that they were definitely in no doubt that they were going to receive the same professional input and dedication that you would expect in any case, irrespective of community, religious background, or somebody's socio-economic status.

229. There are vulnerabilities in all cases when there has been a loss of life, which applies to the next of kin. It's the duty of the investigative authority, whoever happens to be in charge of that investigation, to ensure that the people get the best support that they can possibly get but, equally, there has to be a limit there. You can't not focus on elements of an investigation because someone has a cultural belief that says that you shouldn't. To ignore that would be to ignore a total line of inquiry. It was treated with the same degree of importance and dedication that every other case was.

230. I have been asked if there is any further comment I would like to make which is relevant to the Inquiry's Terms of Reference. The only thing I could add to this is what I would say about any investigation that I've worked on. Unfortunately, the media isn't interested in reporting an evidence-based approach by any investigative authority. A lot of what caused consternation, I think, for the family in this case - and so many other cases - is that a lot of what's been reported in

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the media is taken as fact. Clearly, it's not. It's based on supposition. At the end of the day, newspapers, etc., are commercial travellers that want to sell papers, and sometimes the complexity of the realities do not sit well with putting out a good story. This case suffered from that. That was certainly pertinent to me at the time, that what was perceived to be the case wasn't necessarily the case at all.

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231. From the very beginning, even where Police Scotland were concerned about taking charge of various loci and so on, the family thought there were suspicions been cast about them, specifically because this was being done, and it wasn't the case. It was clearly done, in my opinion, to harvest the evidence that would enable both Police Scotland and PIRC to conduct an evidence-led, fact-based investigation. I think some people within the media distorted that notion, and that maybe affected the family's way of thinking. That's not unique to this case, that's every case to some degree but, really, aside from that, in regard to my involvement, I can't say really anything more than that. It got the same professional input and oversight and treatment as every other case did, in my opinion, certainly when I was in Scotland.

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.

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