

Statement in Response to Rule 8 Request by Sheku Bayoh Public Inquiry

Witness Details

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Statement Dated 22 February 2024

Call with Irene Scullion on 3 May 2015

1. Your Inquiry statement (SBPI-00393) includes the following question and answer:

57. What contact, if any, did you have with other colleagues at PIRC, beyond DSI Harrower and the other PIRC investigators in attendance at Kirkcaldy? What did you discuss with those colleagues?

The only other two colleagues that I spoke with on 3 May 2015 were Irene Scullion Head of Investigations to make her aware of the incident and of what I knew had taken place at the time I spoke to her, and Kay Mackay who was our then I believe part time Media staff member to make her aware of the incident should she be contacted by the media.

What information did you provide to Irene Scullion when you called her to make her aware of the incident on 3 May 2015? From whom did you receive that information?

The information that I received in respect of the incident on 3 May 2015 was given to me by DSI Keith Harrower. The specifics of what was said by me to Irene Scullion I cannot recall due to the passage of time however it would have been based on what is contained in my notebook following Keith having called me to update me about the incident I would obviously have told her it was a death in custody of a black male and given her the circumstances as known to us at that time, that there would likely be high media interest and of the fact that David Green had given us a verbal instruction to investigate.

2. Was it normal practice for Irene Scullion, or other members of PIRC's senior management team, to be made aware of incidents outwith PIRC's usual working hours? If not, why did you make Mrs Scullion aware of the incident in this instance?

Yes, It would be normal practice to make other members of PIRC's senior management team aware of a death in custody during usual working hours and outwith usual working hours and it certainly would be my practice to notify my line manager, which Irene Scullion was.

3. Within her Inquiry statement (SBPI-00414), Mrs Scullion speaks to the call that she received from you on 3 May 2015:

29. The reason Ricky was phoning me was because he felt the incident was so high profile that he needed to let the Commissioner know immediately, which is very unusual. We normally didn't let the Commissioner know about on call matters until the next working day, but Ricky felt that this incident was something that was likely to cause significant media interest and he thought she should know. He didn't have her phone number to hand and wondered if I had it. When he made me aware of what he was doing – he was helping Keith gather a team together – I said, “You go deal with that. I will locate the Commissioner's number and I'll phone her and let her know.”

...

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

Would you agree with Mrs Scullion's recollection that you called her due to the high-profile nature of the incident, based on the incident involving “a man that had died in custody and that the man was black”? If not, why not? If so, what impact did Mr Bayoh's race have on the profile of the incident? What did you discuss with Mrs Scullion in relation to Mr Bayoh's race on this call?

The death of any person in custody is in my view a high profile incident, irrespective of their race and as such this is why I called Irene Scullion my line manager. In this incident the deceased was a black male who had died in custody and I was aware of other such deaths in England and elsewhere attracting elevated press and media attention and believed at that time that the same could occur in respect of this death, which indeed it did and still does.

I do not believe I did discuss or recall having discussed anything further in respect of Mr Bayoh's race in the call with Mrs Scullion.

4. At any stage on 3 May 2015, were you informed that Police Scotland considered that the incident involving Mr Bayoh might be a terrorist incident? If so, from whom did you receive this information? What was discussed in this

regard? Was this information passed to Mrs Scullion when you spoke to her that day?

At no time on 3 May 2015 was I informed by anyone that Police Scotland considered that the incident involving Mr Bayoh might be a terrorist incident. Based on what Keith Harrower had told me at no time did I consider it to be such an incident. Therefor I would not have passed any such information to Mrs Scullion.

Involvement in the investigation on 3 May 2015

5. Your Inquiry statement (SBPI-00393) includes the following question and answer:

43. What role within the investigation did you take on at, or following, the briefing? Were you assigned this role by DSI Harrower, or did you choose to take on this role yourself? Why did you take on this role?

I made the decision to elect DSI Harrower to attend and deal with the incident along with his on call team based on what information was available at that time and the reason for this was quite simply should another such serious incident have occurred anywhere else in Scotland on that date then I would have had to attend and try to contact and call out other staff to assist me.

Additionally I remained at the office until late on that Sunday night in order to deal with any additional resource request or assistance that DSI Harrower may have required in his response to the incident and to deal with prospective media enquiries and to make my line manager Irene Scullion the Head of Investigation aware and update her as and when required. Throughout the course of the afternoon and into the evening I received a number of additional updates from DSI Harrower.

Prior to 3 May 2015, on how many occasions had PIRC required to deploy to multiple incidents simultaneously out of office hours? How were those multiple deployments handled by PIRC including, but not limited to, the resourcing of the responses to those incidents?

Again due to the passage of time, prior to the 3 May 2015, I am unsure if PIRC had been required to deploy to more than one incident concurrently out of office hours, this obviously was a possibility, however I am certainly aware that there have been deployments to more than one incident which have occurred during normal hours and continued into out of office hours. It is not unusual for the on call team to attend a number of incidents over the course of a Friday night, Saturday and Sunday. These incidents would have been resourced by allocated PIRC staff who were on call or additionally had been called out and due to the limited staff numbers of the PIRC, if required assistance may have been requested of and provided by a policing body.

6. In circumstances where PIRC's on-call team has deployed in response to an incident, is it normal practice for a member of that on-call team, or another member of PIRC staff, to travel to or remain within PIRC's offices in order to respond to any further incident that occurs on that day?

Normally the on call DSI and his on call investigators will deploy to the scene or incident but will generally travel to the office to uplift vehicles and any required equipment and stationery, it is dependent on what type of incident is being responded to and if there is any necessity for a member of staff to remain in the office who may deal with a variety of things such as media enquiries, link in with COPFS, Scottish Police Authority forensics, to make telephone calls in order to obtain additional staff etc; As stated in my original statement I elected as a manager for the organisation to send DSI Harrower and his team to attend and deal with the incident which I knew would be a lengthy deployment for them. As a result of them being out for many hours on that Sunday I would not expect them to have been able to attend any other incident that day meaning that I would along with other staff that I called out have to deal with it should another incident have occurred on the Sunday or in the early hours of the Monday. I also felt at the time that there would be high media interest in the death of Mr Bayoh and as I could not initially get a hold of our media member of staff I remained to prepare a holding statement which had to be run past CROWN as well as being a conduit for anything else that DSI Harrower required in terms of additional resources.

7. Had you travelled to Kirkcaldy with the other PIRC investigators on 3 May 2015, and another incident had taken place that required an immediate deployment by PIRC investigators, could this second deployment initially have been managed or directed from Kirkcaldy? If not, why not?

Yes that was a possibility however if a second deployment was required and happened in for example Dumfries, then I would have to have travelled from Kirkcaldy and not Hamilton and if I had been deployed to the incident involving Mr Bayoh all day then I would not have been fit to attend any further call out that may have occurred in the early hours of Monday morning.

8. In hindsight, do you consider it would have been beneficial for you to have deployed to Kirkcaldy along with PIRC's other investigators on 3 May 2015? If not, why not?

No, as a manager I don't consider it would have benefitted me or the organisation. DSI Harrower was a highly experienced Investigator, no one could have predicted the difficulties that would arise in respect of this investigation that Sunday and I do not believe my direct attendance would necessarily have assisted to alleviate the difficulties encountered and also for the reasons outlined in my answers to questions 6 and 7 above.

4 May 2015

9. Your Inquiry statement (SBPI-00393) includes the following question and answer:

124. Within your PIRC statement (PIRC-00381), page 2, you state, with reference to the meeting at 2005 hours:

Deputy Senior Investigator Little also intimated to Detective Superintendent Campbell that he was content for the nine officers to be updated of the interim result from the post mortem.

At this meeting, were you aware if Mr Bayoh's family had been informed of the interim results of the post-mortem? If so, how had you been made so aware? How had the family been informed of the post-mortem results? In May 2015, was it standard practice for officers involved in some way in a death in custody or death following police contact to be informed of the results of the post-mortem after it had taken place? If not, what was the standard practice in these circumstances?

I was not aware if the family had been informed of the interim results. It would not have been standard practice however I believe that DSI Little in doing so was trying to take forward the stalemate in respect of the officers providing statements in order to progress the investigation.

What, if any, discussion did you have with DSI Little in relation to his decision to intimate to DS Campbell that he was content for the nine officers to be updated of the interim result from the post mortem? Did you agree with DSI Little's decision in this regard? If not, why not? Did you communicate this disagreement with DSI Little? What resulted from this?

Police Scotland officers were at the post mortem and as far as I know were privy to the Interim Findings made by the Pathologist. There was no discussion between myself and DSI Little in respect of his decision. I can absolutely understand his rational for doing so and as I have stated before in my first statement he was trying to break the impasse in respect of obtaining the officers statement.

Health and Safety Executive

10. Your Inquiry statement (SBPI-00393) includes the following question and answer:

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

PIRC was capable of investigating matters arising under Health and Safety at Work etc. Act 1974. On 8 July 2015 I became the Investigating officer in connection with the COPFS instructed investigation into the M9 Deaths of

[redacted] and [redacted] and as part of this investigation contraventions of the Health and Safety Legislation were looked at in respect of Police Scotland's involvement which ultimately led to the unprecedented conviction of Police Scotland who pled guilty to health and safety failings under the legislation.

What involvement, if any, did HSE have in relation to the PIRC investigation into the incident on the M9? How did PIRC and HSE work together in relation to this investigation?

It is my understanding that the HSE had been asked by the COPFS to investigate the M9 incident however their Head of Operations for Scotland lettered the COPFS to inform them that they would not be making initial enquiries or be investigating the incident. Consequently PIRC and HSE did not work together in respect of the incident.

11. If HSE were not involved in this investigation, how did PIRC investigate matters arising under the Health and Safety at Work etc. Act 1974 without the resources and expertise of HSE? How did PIRC approach the aspects of this investigation that related to contraventions of health and safety legislation?

The investigation in respect of the Health and Safety at Work etc. Act 1974 was COPFS instructed and led with PIRC carrying out the investigation and evidence and information gathering on their behalf as is done when carrying out an investigation in respect of any legislation.

Statement taking

12. At questions 129 – 133 and questions 135 – 137 of your Inquiry statement (SBPI-00393) you identify that the analysis of evidence, including the content of witness statements, would be undertaken SI John McSporrán and DSI William Little, as the investigators in charge of the investigation. If investigators obtained or identified material information from a witness statement, or another piece of evidence, how would this be brought to the attention of SI McSporrán and/or DSI Little during the investigation? How was it ensured that this information was incorporated into PIRC's investigation?

I would expect the investigator to make John or Billy aware of anything that they felt relevant to the investigation. Ian MacIntyre who was given the role of manager in the incident room that Billy set up also has a responsibility to read all statements and highlight anything of relevance to the SI or his deputy. In respect of how the information was incorporated in this investigation then this is a question I would suggest for John or Billy due to my limited involvement in the matter.

13. Did you ever feel it necessary to bring information or matters to the attention of SI McSporrán and/or DSI Little during the investigation? If so, what

information or matters did you bring to their attention and how did you do this?

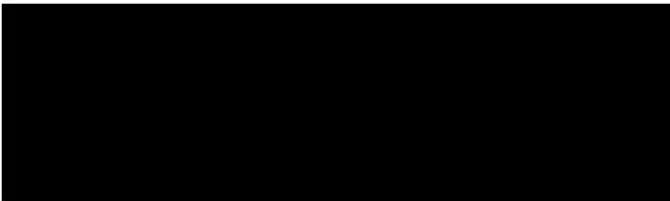
As indicated in my first statement to the enquiry I had limited involvement (3 and 4 May 2015) and had been tasked with dealing with the ongoing investigations prior to this investigation and any further new referrals that came to the organisation from policing bodies and other matters directed by COPFS. I had no reason to bring anything to the attention of John McSporran and/or William Little in respect of this investigation that I recall.

14. The officers involved in the arrest of Mr Bayoh, including PC Alan Paton, who was interviewed in your presence, were interviewed in accordance with the witness interview strategy prepared by PIRC (PIRC-04182). Prior to obtaining statements from these officers were PIRC’s investigators encouraged to ask the officers why they took certain decisions, chose particular tactical options, or used certain degrees of force in responding to the incident? How was this communicated to PIRC’s investigators and by whom?

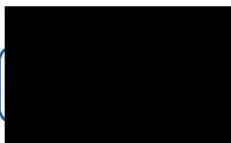
The witness strategy prepared would be a guidance document for the investigators and was not a rigid framework. As part of obtaining the statement I would expect that the officers would be asked the points that you highlight and that these would be explored by the investigators and in the case of Alan Paton from memory I believe these were covered in the taking of the statement by Investigator McGuire. I have no knowledge of how it was communicated to PIRC Investigators and by whom and again I would suggest this is a question for Mr McSporran and or Mr Little to answer.

15. Please include the following wording in the final paragraph of your statement:

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



Signature of Witness



February 27, 2024 | 8:17 AM GMT
Date.....