

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

Witness Details

Alan Buchanan

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Statement Dated: 28 March 2024

Professional Background and Experience

1. Please provide a summary of your professional career including the job titles, dates held and a short summary of your duties. Please include details as to any further or higher education you have undertaken.

I was a police officer for 30 years. I joined Strathclyde Police in May 1984 where I served for 29 years, before becoming part of Police Scotland from where I retired as a Detective Superintendent in May 2014. During my police service I was predominantly a detective officer spending 24 of my 30 years service in CID roles. A breakdown of my service is as follows:

1984 to 1989 Uniform Constable
1989 to 1992 Detective Constable
1992 to 1993 Uniform Sergeant
1993 to 1998 Detective Sergeant
1998 to 2004 Detective Inspector
2004 to 2006 Detective Chief Inspector
2006 to 2007 Uniform Superintendent
2007 to 2014 Detective Superintendent

My career mainly involved the investigation of crime initially based at territorial divisions, but from 2007 to 2013 as part of Crime Division where my role was as a Senior Investigating Officer primarily investigating murder enquiries.

After the formation of Police Scotland I became head of Homicide Governance and Review a department responsible for collating data relating to current and historical murders throughout Scotland. My role involved cascading best practise in relation to murder investigations as well as conducting reviews into unsolved murders.

After retiring from Police Scotland I spent two years from 2015 to 2017 as an Investigation Manager with [REDACTED] primarily investigating internal misconduct and criminality.

From January 2018 to July 2021 I was Director of Operations at PIRC.
I hold a BA in Police Studies.

2. What was your position at PIRC? What were your duties and responsibilities in this position? When did you take on this role and when did you leave PIRC?

I joined PIRC In January 2018 as the Director of Operations, initially shadowing John Mitchell prior to his retirement from PIRC on 31 March 2018. I retired from PIRC in July 2021.

My role at PIRC was to oversee all aspects of operational activity across the three business areas of Investigations, Reviews and Corporate Services each of which had their own Head Of Department. I was also the Accountable Officer responsible for the governance of the PIRC budget.

Lessons Learned

3. During your tenure at PIRC, was there any process to assess “lessons learned” from investigations? If so, what did this process entail? Who was responsible for organising such lessons learned exercises? When would these exercises be held and who would be required to attend?

In general there was no set process for lessons learned as often it was an ongoing process. When I started at PIRC the whole Investigation Team held a briefing every day. As well as providing updates on ongoing investigations the briefing was also used to cascade any best practice or ‘lessons learned’ that had come to light during investigations. In addition there was an intensive quality assurance process in relation to investigation reports during which time myself or the Commissioner would instruct that issues identified for improvement were communicated to the Investigation Team at the next morning briefing or by email to the team.

As PIRC grew in size and the number of investigators increased morning briefings were reduced to three days a week with only supervisors in attendance. Supervisors would then update their individual teams with regard to the content of those briefings.

Although there was no set process in place it was possible for a full lessons learned exercise to take place if it was felt that it would be beneficial. During my time at PIRC I believe we only carried this out on one occasion and I will refer to this in answer to question 4.

4. Within Kate Frame’s Inquiry statement (SBPI-00447, paragraphs 785 – 786), she states:

785. I have been asked if there was any process within PIRC to assess lessons learned from its investigations. Generally, any lessons learned

would be raised at the team briefings and shared at that stage. For example, the issue around the comparison between the handwritten and typed statements was raised at a team briefing. Generally, in some of the serious investigations there were individual meetings convened with senior investigative staff and those who had been most heavily involved in the investigation.

786. I have been asked if a such a meeting was convened for the Bayoh investigation. Yes, a debrief session was held. A number of the investigators who took a lead part in the investigation were present, and we reviewed some of the aspects of the case, such as the proposal to strengthen Regulation 5 and whether statements required to be requested via the SPOC. There was also general discussion around the wider use of the PIM process.

Ms Frame's oral evidence to the Inquiry contains the following exchange with Senior Counsel to the Inquiry (day 89, page 73, line 9 – day 89, page 76, line 17 of the transcript):

Q [Senior Counsel to the Inquiry]. I have asked a number of PIRC witnesses about lessons learned, an exercise, and some have said they call it a debrief. Would you understand that –

A [Kate Frame]. Yes.

Q. -- to be a lessons learned opportunity?

A. Mm-hmm.

Q. I think at 786 you were asked if a briefing -- a meeting was convened for the Bayoh investigation and you say: "Yes, a debrief session was held. A number of the investigators who took a lead part in the investigation were present, and we reviewed some of the aspects of the case, such as the proposal to strengthen Regulation 5 and whether statements required to be requested via the single point of contact."

A. Yes.

Q. So specific issues that had arisen during the course of the investigation were addressed?

A. Yes.

Q. And there was also general discussion around the wider use of the PIM process?

A. Yes.

Q. We have heard evidence from Mr Harrower, Mr Little, Mr McSporran and Mr Lewis, who was the FLO?

A. Right.

Q. And I asked all of them -- although my learned junior asked Mr Lewis -- about whether there had been a lessons learned exercise, whether there had been a debrief in relation to Mr Bayoh's investigation.

A. Yes.

Q. All of them suggested that they had not taken part in any lessons learned exercise.

A. Okay.

Q. I am just wondering if you can help us understand why you suggest there was an exercise such as this and they seem to not remember such an exercise?

A. The exercise was held -- I think Mr Mitchell originally felt that there shouldn't be an exercise held whilst proceedings were still being considered, which appeared to be a valid position at that time. Following his retirement, the next director of operations at that time came into the post and he considered that there would be value in doing that. He held it and my recollection is that Mr Little in particular was there, because I can remember him making some comments in relation to the process around obtaining the requests for the statements direct.

Q. When did this lessons learned exercise take place then?

A. It would be after Mr Buchanan took up post.

Q. And he replaced Mr Mitchell?

A. Mr Mitchell, yes.

Q. Do you remember roughly when the meeting, the exercise took place?

A. No, it would be in -- I think it would be in the first six months of Mr Buchanan's tenure and I can't recall when he took up post.

Q. But that would be after Mr --

A. Mr Mitchell left --

Q. -- Mitchell retired?

A. -- yes.

Q. You've mentioned you think Mr Little was there?

A. Yes.

Q. We've not heard anything about such an exercise from Harrower or McSporran or Lewis either?

A. Mm-hmm.

Q. Why would they not have been involved in this exercise?

A. I am not saying they weren't, it is just Mr Little is the person that I can specifically remember being in attendance at that meeting. I think -- I would be surprised if Mr Harrower wasn't there, I don't know about the other two.

Q. You were there?

A. I was there.

Q. You think Mr Little was there?

A. Yes.

Q. How many people were there? Do you have an impression, a recollection?

A. I would suggest about a dozen. Ten to a dozen.

Q. So, as far as you were concerned, and we see it at the top of the page, so it must be 785, were the senior investigative staff and those who had been most heavily involved in the investigation present?

A. Mm-hmm.

Q. Could you be mistaken?

A. No, definitely not.

Ms Frame makes reference to you, as director of operations, considering that there would be value in holding a lessons learned exercise, or debrief session, in relation to the investigation following the death of Mr Bayoh and that this likely took place

during the first six months of your tenure at PIRC. Do you recall the lessons learned exercise to which Ms Frame refers in her evidence? If so, what did this involve? Where and when did this take place? Who was in attendance? What was discussed?

In relation to Miss Frame's assertion that I organised a Lessons Learned exercise for the Bayoh investigation I think she is mistaken and confusing this for a exercise that I did organise in relation to a Senior Officer Misconduct Investigation. The reason for organising that exercise was that the investigation had been high profile and the circumstances were of a type not previously dealt with by the PIRC and it was important that we learned from the process.

With that said, although I joined PIRC almost three years after Mr Bayoh's death I was present at a number of meetings with Miss Frame and senior Investigation Team staff where aspects of the Bayoh investigation were discussed particularly around PIRC powers and lack of statements from officers, this was in the main in preparation for PIRC's submission to the Angiolini review into Police Complaints Investigations and Misconduct.

5. Who made the decision to hold this lessons learned exercise? If you made this decision, why did you consider that there was value in holding a lessons learned exercise in relation to the investigation following the death of Mr Bayoh at this point? Did you consider that such an exercise should have been carried out prior to this? If so, why? If not, why not?

N/A

6. What, if any, impact did Mr Bayoh's race have on your consideration around holding a lessons learned exercise in relation to this investigation? What, if anything, was discussed in relation to Mr Bayoh's race during this lessons learned exercise?

N/A

7. If you do not recall the lessons learned exercise, or debrief session, to which Ms Frame refers in her evidence, are you aware of any other lessons learned exercise that took place in relation to the investigation following the death of Mr Bayoh? If so, what did this exercise involve? Where and when did this take place? Who was in attendance? What was discussed?

Other than day to day briefings and what I have already referred to I am not aware of any other Lessons Learned exercise taking place.

8. If you are not aware of any lessons learned exercise taking place in relation to the investigation following the death of Mr Bayoh, why did this not take place? Do you think PIRC would have benefited from such a lessons learned exercise in

relation to the investigation following the death of Mr Bayoh? If so, why? If not, why not?

In relation to why a structured Lessons Learned exercise did not take place, I can't answer that for the period prior to me joining PIRC. By the time I joined I believe it was too late to hold such an exercise as PIRC were already a different organisation in relation to size and capability and exercises such as these should be held as close to an event as possible to be of any real value.

My understanding within policing is that although debriefs are held at the conclusion of major investigations, much of the full lessons learned exercises are conducted after proceedings have concluded. In the main this is to ensure that anything said is given honestly and if required self critically in order that there can be real learning. To hold such an exercise prior to proceedings being concluded could result in any documentation which was produced becoming disclosable. This and the fact that documentation could also be subject of Freedom of Information requests can on occasions lead to a reluctance to be totally open and frank during such exercises.

I do think that it would have been beneficial for PIRC to have had a Lessons Learned exercise after the submission of the final report to capture any learning at that time. The exercise would include all the staff who played key roles during the investigation and other internal subject matter experts who could contribute to best practice learning. Although difficult before the conclusion of any decision on proceedings or otherwise, multi agency debriefs are often of great value giving key organisations, in this case such as PIRC, Police and COPFS an opportunity to give their perspective on how things could've worked better in the circumstances.

There is also scope to involve the family of a deceased in aspects of those multi agency debriefs to speak of their experiences and to provide opportunities for learning in that regard.

Miscellaneous

9. Knowing what you know now, is there anything you feel PIRC as an organisation should have done differently in relation to this investigation?

I think this is difficult to answer as I wasn't there in 2015 and the resources available to PIRC now are far greater to what was available in 2015.

Clearly more resources on the ground on 3 May would have been beneficial, but PIRC were a small organisation and this was further compounded by the fact the incident took place on a bank holiday weekend when there were no PIRC staff on duty other than a small on call team.

Identifying where the information came from in the original briefing paper should have been established. Normally the briefing paper would be read in the incident room and

marked up for an action to identify and take a statement from the source of the information on the briefing paper. I understand that by the time the briefing paper was being read on the 4 May it was already known that Mr Bayoh was not in possession of a knife during his engagement with the police and this may have been why the briefing paper wasn't actioned. Nevertheless without statements from the officers involved it was important to establish where this information had come from.

In relation to telling the officers that they were witnesses, although resources were scarce I would have tried to have PIRC staff speak to the officers directly and not through other parties. By doing this the PIRC message is clear and unambiguous. I personally did this during a Post Incident procedure after a police officer [REDACTED]. The reason I did this was to make it clear to the officer that although his actions were unconventional, in all the circumstances known to PIRC his actions were proportionate and reasonable and he was not suspected of any criminality.

In relation to Billy Little's decision to tell the officers the result of the Post Mortem, I totally understand his rationale for doing so in an attempt to break the log jam of the officers refusing to give statements until after the result of the PM and it's something I would have been in favour of doing myself had I been involved. What I would have done though is seek COPFS's authority to do so.

Without meaning to minimise in any way the circumstances, methodology for major investigations tends to follow similar themes. What I would say is that while recognising the role of COPFS I would have been looking to have a conversation with them in relation to much of the ancillary investigations that they instructed as these primary appeared to be at the behest of Mr Anwar rather than COPFS themselves.

The reason I say this is for example had these ancillary investigations uncovered that any of the officers who engaged with Mr Bayoh had a history of racism or allegations of excessive force, it would have made no difference to the actual evidence of what occurred on the 3 May. If no evidence of wrongdoing has been established, that doesn't change because something comes to light in relation to someone's historical behaviour. These investigations would only have been relevant if there was something untoward in the officers actions and you were looking to establish what the motivation behind that untoward action was.

I've seen critical comment during the Inquiry with regard to why it was not a key hypothesis from the outset that the officers actions could have been motivated by race. In my opinion that would only have been relevant had their been an anomaly in their actions that you wouldn't have expected to see if Mr Bayoh had been white. At that point you would then ask why the anomaly had occurred and one of the reasons could have been because of Mr Bayoh's race.

This incident wasn't like a murder investigation where the victim was black and you had no information as to the motivation for the murder. In those circumstances absolutely

one of the key hypothesis would be that the murder could be racial, but when officers respond in the manner that they did in relation to Mr Bayoh and there is no evidence of them deviating from what I would have expected them to have done, then I wouldn't be asking the question were they motivated by race.

10. What, if anything, have you seen or read about Mr Bayoh's death, the subsequent investigation and the Inquiry within the media? Do you think your recollection has been affected at all by what you have read in the media or have seen in the Inquiry evidence? If so, in what way?

I've seen a lot in the media over the years about the death of Mr Bayoh mainly containing statements from Mr Bayoh's family and their solicitor Mr Anwar. I've also seen at least one BBC documentary in relation to Mr Bayoh's death. Almost without exception the material that I've seen has been one sided against the officers actions and has often been factually incorrect. I have also watched some of the Inquiry proceedings. As I wasn't involved in 2015 the material that I've seen hasn't impacted on my recollection.

11. The Inquiry's Terms of Reference are contained within Annex B. If there is anything further that is relevant to the Terms of Reference of which you are aware, but you have not included in your answers to the above questions, please provide detail as to this.

Further information which I think is relevant is as follows:

Actions of Officers

I have seen in evidence from the Inquiry the suggestion that the speed of the officers resorting to force may have been unreasonable and action they may not have taken had Mr Bayoh been white. From the evidence that I am aware of I have seen nothing to suggest that the officers acted in a way other than what I would have expected them to given the information that they had and the potential threat that they faced.

Although the officers don't see Mr Bayoh in possession of a knife it would have been folly, based on the reports from members of the public, for the officers to assume that he did not have a knife. They have to exit their vehicles ready to face a potential lethal threat from Mr Bayoh. He fails to follow instructions, closes the gap between himself and the officers, the officers use their spray as to not do so would put them at even greater risk, it has no effect and Mr Bayoh assaults Nicole Short, he is then batoned and taken to the ground where a struggle ensues in an attempt to restrain him. Other than doing nothing and exposing the public and themselves to a substantial risk of harm, I'm not sure what other action they were expected to take.

The officers at that point don't know that Mr Bayoh has taken Alpha PVP which makes the threat he poses even greater as he is likely to behave irrationally, be delusional, paranoid, be prone to violence and have increased strength due to adrenaline pumping

through his body. They also don't know that he has just assaulted his friend prior to arming himself with a knife, but they have to assume that Mr Bayoh is a threat based on the information that has been received from the public.

Status of Officers

For the officers to be anything other than witnesses a crime has to have been established and there has to be evidence that those officers committed that crime. Officers are legally entitled to use force, including lethal force provided it is proportionate and reasonable to the threat they face.

A great deal has been made of the Pathology result 'while being restrained' as if in some way that should have made the officers suspects. That comment does not say that the restraint caused or contributed to the death, merely that Mr Bayoh died while being restrained, but even if it could have been proven that the restraint was a contributory or even primary cause of death it still wouldn't impact on the officers status unless there was evidence to suggest that the restraint was not proportionate and reasonable in the circumstances. Equally had the Post Mortem revealed that Mr Bayoh had died of blunt force trauma caused by a baton strike, that also wouldn't have changed the status of the officers unless there was evidence to suggest that the baton strike was not proportionate and reasonable. An analogy in relation to this would be the fatal police shooting of an asylum seeker in Glasgow. The Post Mortem in that case established that the male died of gunshot wounds inflicted by police officers. Those officers were never suspects as it was clear from the evidence that their actions were proportionate and reasonable due to the threat that they had faced.

Mention has been made of the Officer Safety Manual or SOP, particularly in relation to Positional Asphyxia and that because officers or an officer was lying across Mr Bayoh's back that should in some way have made the officers suspects. The Manual/SOP is guidance, advice on what an officer should endeavour to do in 'standard' conditions, i.e. where possible don't strike a red area, be aware that putting pressure on someone's back could induce Positional Asphyxia. Although important that officers are aware of these issues, when they are faced with a threat which could potentially be lethal and they are struggling on the ground with someone who may be in possession of a knife and is acting irrationally due to the drugs consumed all they are trying to do is get control of the male ensuring that he cannot inflict injury on themselves or their colleagues. If that means they have to go against guidance contained in the SOP because the circumstances are no longer 'standard' then that doesn't make them suspects providing their actions continue to be proportionate and reasonable.

From my experience the struggle with and attempted restrained of Mr Bayoh is not unique and I would suggest similar incidents happen throughout Scotland daily. The thing that makes this incident unique is that Mr Bayoh died. The difference in this case was that Mr Bayoh had taken drugs, in particular Alpha PVP and had he not done so I've no doubt he would've been safely taken into custody and his arrest would have merited no further comment.

I have seen various parts of the Inquiry where it has been suggested that the officers were refusing to provide statements until their status was confirmed, you can only take a statement from a witness, you cannot take a statement from a suspect. Suspects can only be interviewed under caution and that caution is in relation to a specific crime which has been established to have taken place.

Correspondence referred to recently including by the Dean of Faculty where it was insinuated that the officers and their solicitor, Mr Watson, had not had the officers status confirmed, hence they would not provide statements, would suggest that they did know their status as otherwise they wouldn't be referring to statements which can only be taken from witnesses.

Was Race a Factor

I've seen no evidence to suggest that the officers responded differently to Mr Bayoh because he was black.

I've been on numerous diversity courses throughout my career and fully understand unconscious bias and the negative impact it can have. While I recognise the value of training in this regard I do question it's value in situations such as that faced by the officers on 3 May 2015 where they were responding to the report of a male threatening members of the public with a knife. What I wouldn't want to see is for officers to hesitate to consider is this man who is reported to be in possession of a knife really a serious threat to me or do I just perceive him to be because he is black and I'm being unconsciously biased. The officers didn't have the luxury of time to have that internal debate.

Much has been made in the Inquiry in relation to thoughts expressed or language used by officers which could have been racist and why did PIRC not highlight these matters to COPFS. In my view the reason would be that there was no evidence that these thoughts or comments were intended to be racist and even if they were wouldn't change the actual evidence of why Mr Bayoh died.

As well as the Lee Rigby attack, there have been numerous attacks throughout Europe, including in the UK, where either a group or lone individuals armed with knives have carried out terrorist attacks. Most of the individuals involved have not been white. To suggest because an officer considered that the report in relation to Mr Bayoh could have been terrorist related was racial profiling/stereotyping in my opinion is wrong.

When the first reports came to the police and subsequently the PIRC in relation to the asylum seeker stabbing a number of persons in a hotel in Glasgow, one of the considerations was , could this be terrorist related ? It wasn't the only consideration but it did have to be considered and I would suggest didn't make any of us involved that day racist.

I know through experience and training that the use of the word 'coloured' to describe black people is inappropriate and I wouldn't use such a term, but someone using it who has not had the benefit of my experience and training does not automatically make them racist. In my view it would only become racist if having been advised that the terminology was offensive that the individual continued to use it.

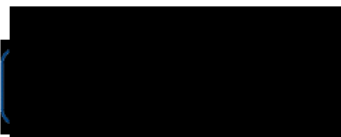
Terminology changes through time and words that we use today in relation to a number of areas will no doubt be deemed to be inappropriate in the future. What is important is that people stop using words which cause offence once they know that they are now offensive.

Although it is undoubtedly a training issue, it is neither criminal or a misconduct matter for an officer not to be aware of what language is currently not acceptable.

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 website.

Alan Buchanan

Signature of Witness



April 9, 2024 | 1:15 PM BST
Date.....