

Assistant Solicitor to the Inquiry

[REDACTED]

[REDACTED]



Mr Stuart Taylor

By email only: [REDACTED]

21 December 2023

Dear Mr Taylor

Rule 8 Request

I am writing on behalf of the Chair to the Sheku Bayoh Public Inquiry ('the Inquiry').

As you may be aware we have liaised with the Police Investigations and Review Commissioner ('PIRC') to arrange the provision of your Inquiry statement. PIRC has confirmed to the Inquiry your preference for your statement to be prepared under Rule 8 procedure.

Under [Section 21\(2\)\(a\) of the Inquiries Act 2005](#) the Chair may, by notice, require a person to provide evidence in the form of a written statement. [Rule 8 of The Inquiries \(Scotland\) Rules 2007](#), provides that the Inquiry may send a written request to any person for a written statement of evidence. I hereby request you provide a written statement to the Inquiry by **5pm on 17 January 2024**. Please provide your written statement by email to [REDACTED]. If you feel further time to complete your written statement would be beneficial, please contact the Inquiry to agree a revised deadline.

It is a criminal offence to fail to comply with this request without reasonable excuse. I refer you to [Section 35\(1\) of the Inquiries Act 2005](#).

Annex A to this letter sets out the areas to be covered in your written statement. Annex B contains a copy of the Inquiry's Terms of Reference. The Inquiry will shortly be in a position to share a Connect workspace containing a copy of the documents referred to in Annex A. The documents provided via the Connect workspace remain subject to the Inquiry's general [restriction order](#) and may not be shared by you with any other person.

You may wish to take independent legal advice in relation to the contents of this letter and the questions contained within Annex A prior to providing your written statement. Should you decide to take independent legal advice prior to providing your written statement, and you wish

to share the documents provided to you via the Connect workspace with your solicitor in order to do so, please contact the Inquiry's legal team in advance by email at [REDACTED].

[Section 22\(1\)\(a\) of the Inquiries Act 2005](#) states that a person may not be required, under section 21, to give, produce or provide any evidence or document if you could not be required to do so if the proceedings of the Inquiry were civil proceedings in a court. If you are of the view that section 22 applies to your evidence, please advise the Inquiry of this and the reasons why you believe section 22 applies.

Your statement may be disclosed to the Core Participants in the Inquiry and may be published on the Inquiry's website. Any personal information that is not relevant to your evidence will be redacted prior to disclosure.

Every effort has been made to ensure this request is as comprehensive as possible, however the Inquiry may issue an additional request under Rule 8 to you if it is considered that there is further evidence from you that would assist the Inquiry. Providing more detailed answers at this stage should reduce the possibility that the Inquiry will require a further Rule 8 statement from you.

The written statement will form part of the evidence of the Inquiry. For that reason, it is important that it is in your own words. You may be asked to attend a hearing to give oral evidence to the Inquiry. I will contact you in the coming weeks to confirm this.

If you have any questions regarding this letter or the content of your written statement, please contact the legal team by email at [REDACTED].

Yours sincerely

[REDACTED]

ANNEX A

AREAS FOR WITNESS STATEMENT

MR STUART TAYLOR

Please provide your **full name, date of birth, personal or business address**.

Please provide as much detail as you can in relation to each of the following questions.

These questions will focus on your role at the Police Investigations and Review Commissioner (PIRC) and your involvement in PIRC's investigation following the death of Mr Bayoh.

Your 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.
2. Please expand on any professional experience you consider relevant to your role within PIRC. This could include previous employment or training.
3. Prior to 3 May 2015, what, if any, contact had you had with the following Police Scotland officers: Craig Walker, Alan Paton, Nicole Short, Ashley Tomlinson, Alan Smith, Kayleigh Good, Daniel Gibson, James McDonough and Scott Maxwell?
4. Prior to 3 May 2015, had you had any contact with the Police Scotland officers you encountered in the course of the PIRC investigation? Please include detail as to how and when you met them, and your relationship as at May 2015.
5. As at 3 May 2015, was there any policy or guidance for PIRC staff who were acquainted with a Police Scotland officer that they encountered in their role, or who was the subject of a PIRC investigation? If so, please can you identify the policy or guidance in question.
6. Has PIRC ever investigated police officers with whom you were acquainted? What process would be followed if you had a personal or professional relationship with an officer investigated by PIRC?

The Police Investigations and Review Commissioner

7. What was your position at PIRC on 3 May 2015? What were your duties and responsibilities in this position?
8. How were trainee investigator vacancies advertised? Were any restrictions placed on the persons who could apply for those positions? Was there any requirement that applicants not have a background in the police?
9. Who was your line manager or supervisor? Please provide details as to how you were supervised by them. Did you have an annual appraisal? If so, were notes taken?
10. Between May 2015 - August 2016, do you feel that there was adequate resourcing for PIRC to comply with its statutory obligations in terms of:
 - (a) Funding;
 - (b) Staffing numbers;

- (c) Training opportunities; and
- (d) Expertise of staff.

If not, why not?

11. Do you feel that your non-police background (PIRC-04515) has any advantages or disadvantages for your work at PIRC? If so, please provide full details. What impact, if any, does not having a background in the police have on your ability to provide direction to officers from Police Scotland during investigations in which PIRC require to provide such direction?
12. In 2015-2016 PIRC had various staff members who had previously held roles within the police. Do you feel that PIRC as an organisation was impacted positively or negatively by staff having held roles within the police? Please explain why you hold this view.
13. Prior to 3 May 2015, what experience, if any, did you have of PIRC investigations of deaths in police custody, or deaths following police contact? In what ways were these investigations similar or different to the investigation following the incident involving Mr Bayoh on 3 May 2015?

Training

14. What training did you receive as part of PIRC's trainee programme? What subjects were covered? How were they covered? Who was responsible for creating, delivering and coordinating the trainee programme? How was the work of trainee investigators monitored, supervised and checked? Do you feel that the trainee programme adequately prepared staff to take on an investigator role at PIRC? If not, why not?
15. Following completion of the trainee programme, what further training have you undertaken in your role? Is the training that you have completed in your role at PIRC covered in full within the training records received by the Inquiry (PIRC-04577)?
16. How different, if at all, was the training that you received as an investigator from a non-police background to the training received by your colleagues from police backgrounds?
17. In 2015, how was it identified that investigators and staff required, or would benefit from, training? Was it necessary for investigators and staff to request training, or were training needs identified by line managers and other senior members of staff at PIRC? Who was responsible for ensuring that PIRC's investigators were sufficiently well trained?
18. Did you feel adequately trained to carry out your role at PIRC? Please explain why, or why not. What, if any, additional training would have assisted you in your involvement in the investigation?
19. Is there any process within PIRC to assess "lessons learned" from investigations? If so, what does this process entail? Did any "lessons learned" exercise take place following the investigation following the death of Mr Bayoh? If so, what did this involve? If not, why did this not take place? Do you think PIRC would have benefited from such a "lessons learned" exercise following that investigation?

Your involvement with the PIRC investigation

Sunday 3 May 2015

Call from DS Harrower

20. Your PIRC statement (PIRC-00358), at page 2, notes that around 1030 hours on 3 May 2015 you were contacted by Deputy Senior Investigator Keith Harrower and made aware of the incident involving Mr Bayoh. Was this the point at which you learned of the incident involving Mr Bayoh? If not, when did you first become aware of the incident? What did you discuss with DSI Harrower on this call?
21. Were you made aware of Mr Bayoh's race when you spoke to DSI Harrower at 1030 hours? What, if anything, did you discuss with DSI Harrower in relation to Mr Bayoh's race on this call?
22. When speaking with DSI Harrower at 1030 hours, what were your initial considerations and priorities at the outset of the PIRC investigation? What impact, if any, did Mr Bayoh's race have on those initial considerations and priorities?
23. At this stage, what was your understanding of the legislative basis upon which PIRC were instructed to investigate the incident by the Crown Office and Procurator Fiscal Service (COPFS)? Was your understanding that the investigation was instructed under section 33A(b)(i) or section 33A(b)(ii) of the Police, Public Order and Criminal Justice (Scotland) Act 2006? Were you aware of the legislative basis upon which PIRC were instructed to investigate changing during the investigation? If so, how did the legislative basis for the investigation change? What difference, if any, does the legislative basis upon which PIRC are instructed to investigate by COPFS make to a PIRC investigation?

On call system

24. Your PIRC statement (PIRC-00358), at page 2, identifies that you were on call on 3 May 2015. You identify that, in addition to yourself, DSI Harrower, Investigator Maurice Rhodes and Senior Investigator Richard Casey were part of PIRC's on-call team that day. Was this the normal number of investigators that would be on call on a Sunday morning in May 2015? What was PIRC's system for allocating investigators to the on-call rota? What consideration, if any, was given to investigators' skills, expertise and experience when setting the on-call rota?
25. In May 2015, how common was it for PIRC staff that were not on call to be asked to report for duty immediately and participate in an investigation? In circumstances where staff who were not on call were asked to attend work, how were those staff chosen?
26. What did being "on call" as a PIRC investigator involve? How many times had you performed this role prior to 3 May 2015? On how many occasions had you been required to deploy to an incident whilst you were on call prior to 3 May 2015? On how many occasions did those deployments relate to deaths in police custody, or deaths following police contact?

Resources

27. On the basis of the information you had available to you on 3 May 2015, did you consider PIRC had sufficient resources to respond to the incident that day? What discussions, if any, did you have with DSI Harrower in relation to PIRC's level of resources on 3 May 2015?
28. Within his evidence to the Inquiry, Detective Superintendent Patrick Campbell stated, with reference to the level of PIRC's resources on 3 May 2015 (day 47, page 128, line 23):

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

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

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

DS Campbell also stated in this regard (day 49, page 174, line 5):

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

What are your views in relation to DS Campbell's comments regarding the level of resources available to PIRC on 3 May 2015? Do you agree that the level of resources available to PIRC on that day was "insufficient for the job"? Please explain why you hold this view.

Briefing at PIRC offices

29. Within your PIRC statement (PIRC-00358), at page 2, you state that you attended a briefing at PIRC's offices in Hamilton on 3 May 2015. What was the purpose of that briefing? Was it PIRC's standard practice to convene investigators at PIRC's offices prior to deployment? If so, was this practice based on a PIRC standard operating procedure (SOP)? If not, why were PIRC investigators convened at PIRC's offices on 3 May 2015? When you spoke with DSI Harrower earlier on 3 May 2015, what, if any, consideration was given to PIRC's investigators convening in Kirkcaldy instead of in Hamilton?
30. What was discussed during this briefing? What information was provided to you by DSI Harrower in relation to the incident involving Mr Bayoh and the contact he had with the officers who attended the scene at Hayfield Road? What information, if any, was provided to you in relation to Mr Bayoh being in possession of a knife? Were you informed that Mr Bayoh was in possession of a knife when he came into contact with the police officers at the scene?
31. What decisions were made at this briefing? What discussion, if any, was there in relation to PIRC's investigative strategies at this briefing? What discussion, if any, was there in relation to the status of the officers as witnesses or suspects? What discussion, if any, was there in relation to the separation of the officers involved in the incident to mitigate the risk of conferral?
32. What was your understanding of the scope of PIRC's investigation at the point the briefing was held? Did your understanding of the scope of PIRC's investigation change over the course of the day on 3 May 2015? Based on your understanding of events at this time, were you content with the scope of the investigation instructed by COPFS? Did your views about the scope of PIRC's investigation, and the appropriateness of the division of responsibilities between PIRC and Police Scotland, change over the course of the day on 3 May? If so, in what way?

33. Your PIRC statement (PIRC-00358), at page 2, states that, along with Investigator John Ferguson, you were instructed to deal with scene management of a side room within the Accident and Emergency department of Victoria Hospital and the forensic recovery of Mr Bayoh's body to the mortuary. What did this role involve? What is involved in the recovery of a body following a death in custody? How were responsibilities for this role split between yourself and John Ferguson? How many times had you carried out this role prior to 3 May 2015? Had you performed this role in a death in custody investigation prior to the incident involving Mr Bayoh? What were your initial priorities and considerations in relation to the Victoria Hospital scene and the recovery of Mr Bayoh's body?
34. Following DSI Harrower's briefing, were you clear in relation to your role and responsibilities within the investigation? If not, why not?
35. On 3 May 2015, what involvement, if any, did DSI Harrower have in the management of the scene at Victoria Hospital and the decisions made in that regard? Did DSI Harrower sign off on all "priority actions" in relation to the scene at Victoria Hospital, as set out within PIRC's scene management log (PIRC-01464, page 6)? Who at PIRC was ultimately responsible for the management of the scene at Victoria Hospital?
36. Your PIRC statement (PIRC-00358), at page 2, identifies that SI Casey did not deploy to Kirkcaldy and remained in Hamilton, "*coordinating the PIRC response from Hamilton House*". Why did SI Casey remain in Hamilton, rather than deploy to Kirkcaldy with the rest of PIRC's investigators?
37. Following the briefing, what contact did you have with SI Casey on 3 May 2015? In what way did SI Casey coordinate PIRC's response to the incident on 3 May 2015? Did you regard SI Casey or DSI Harrower as being in charge of PIRC's investigation in relation to the incident involving Mr Bayoh?
38. What involvement, if any, did you have in compiling the scene management log for Victoria Hospital (PIRC-01464)? What was the purpose of this scene management log?
39. The scene management log for Victoria Hospital (PIRC-01464), at page 5, appears to identify that you and John Ferguson would "*assume scene management for deceased and Kirkcaldy PO*". Was it ever considered necessary for Kirkcaldy Police Office be designated as a "scene" on 3 May 2015? If so, for what reason? Should the reference here to "Kirkcaldy PO" instead refer to "Victoria Hospital"?

Cooperation with Police Scotland

40. Your PIRC statement (PIRC-00358), at pages 2 and 3, identifies that management of the scene at Victoria Hospital, and the forensic recovery of Mr Bayoh's remains, was to be completed in conjunction with a Police Scotland Crime Scene Manager. Was PIRC or Police Scotland in charge of the scene Victoria Hospital? What were PIRC and Police Scotland's respective responsibilities in relation to the scene at Victoria Hospital?
41. Is it standard practice for PIRC to manage a scene in conjunction with Police Scotland during a PIRC investigation following a death in police custody or death following police contact? If so, what are the benefits of this approach? If not, why was this approach adopted in this investigation?
42. During a PIRC investigation following a death in custody or death following police contact, is it possible for PIRC to manage a scene without the assistance of Police Scotland? If not, why not?

43. What impact, if any, does the continued involvement of Police Scotland in the management of scenes following a death in custody or death following police contact have on PIRC's actual or perceived independence?
44. Was PIRC sufficiently independent from Police Scotland? How was this independence ensured?
45. Had the Hayfield Road scene been identified as a potential crime scene what, if any, steps would have been taken differently by PIRC in relation to the management of the scene at Victoria Hospital and the recovery of Mr Bayoh's body on 3 May 2015?

Arrival at Kirkcaldy Police Office

46. Your PIRC statement (PIRC-00358), at page 3, identifies that you arrived at Kirkcaldy Police Office at around 1400 hours. Having been informed about the incident at 0935 hours, do you consider there was any delay in PIRC's investigators arriving in Kirkcaldy? If so, what impact, if any, did the delay in PIRC's arrival at Kirkcaldy have on the investigation?
47. Prior to your arrival at Kirkcaldy Police Office, what, if any, communication did you and John Ferguson have with Police Scotland's officers in relation to the management of the Victoria Hospital scene and the recovery of Mr Bayoh's body?
48. When you arrived at Kirkcaldy, what investigation, if any, did you consider Police Scotland to be carrying out? Was that investigation appropriate? Do you consider the delay in arriving at Kirkcaldy to have, in any way, affected PIRC's ability to lead the investigation? If so, in what way was PIRC's ability to lead the investigation affected?

Gold Group meeting 1400 hours

49. Your PIRC statement (PIRC-00358), at page 3, notes that you attended a meeting with Police Scotland staff, chaired by ACC Ruaraidh Nicolson, at approximately 1400 hours. What was discussed at this meeting? What decisions were taken in relation to scene management and the recovery of Mr Bayoh's body?
50. What were PIRC's priorities in relation to the investigation at the time of the Gold Group meeting at 1400 hours? How were these priorities communicated to Police Scotland during the meeting?
51. Was PIRC in charge of the investigation at the point the Gold Group meeting was held at 1400 hours? How was this demonstrated to be the case? If not, why not? At what stage on 3 May 2015 did you consider PIRC to be in charge of the investigation? If you did not consider PIRC to be in charge of the investigation at the point the Gold Group meeting was held at 1400 hours, who did you think was in charge?
52. Following a death in police custody or a death following police contact, are meetings in relation to the investigation usually chaired by an officer from Police Scotland? If not, why was the Gold Group meeting at 1400 hours chaired by ACC Nicolson?
53. The typed minutes of the Gold Group meeting (PS07268), at page 2, refer to a "*Loci Strategy*" as part of the "*Investigative process*". What did this loci strategy comprise? Who was responsible for creating this strategy? What input, if any, did PIRC provide in relation to the creation of the loci strategy? Were you content with the content of the strategy in relation to the scene at Victoria Hospital? If not, why not?

54. The typed minutes of the Gold Group meeting (PS07268), at page 3, refer to consideration of “community issues” and, at page 4, refer to “cultural issues”. What community and cultural issues were discussed at the Gold Group meeting and what consideration did PIRC give to such issues on 3 May 2015? Did you consider that any such issues were relevant to the management of the scene at Victoria Hospital and the recovery of Mr Bayoh’s body? If so, in what way?

55. The typed minutes of the Gold Group meeting (PS07268), at page 4, state:

PIRC looking for definitive point of contact with knowledge of all circumstances.

What were PIRC looking to achieve in this regard? What steps, if any, were taken by Police Scotland to accommodate this request? Did you feel at this stage that you had sufficient knowledge of the circumstances of the incident to allow you to manage the scene and recover Mr Bayoh’s body, as you had been tasked to do? If not, why not?

56. The typed minutes of the Gold Group meeting (PS07268), at page 4, state:

As above prioritising

- scenes – initial locus, hospital/ambulance

What, if any, involvement did you have in managing the scene at the ambulance in which Mr Bayoh was taken from Hayfield Road to Victoria Hospital?

57. At this stage on 3 May 2015, what was your understanding of the status of the officers involved in Mr Bayoh’s arrest? Were they witnesses or suspects? How did you come to be aware of the officers’ status on 3 May? What discussion, if any, was there in relation to the officers’ status at the Gold Group meeting at 1400 hours?

58. What are the circumstances in which a person is treated as a suspect by PIRC? Do you consider that it is PIRC’s responsibility to decide whether to categorise a person as a witness or a suspect during an investigation? What is the significance of treating a person as a suspect?

59. Within Detective Chief Superintendent Lesley Boal’s operational statement (PS00669), pages 2 – 3, she states:

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

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

What strategies had PIRC considered or developed prior to the Gold Group meeting at 1400 hours? Did you attend the briefing to which DCS Boal refers? If so, would you agree with DCS Boal's assessment that there was an "*absence of any strategy*" discussed at the meeting? If so, why? If not, why not? What strategies were agreed with Police Scotland at this meeting? With whom did responsibility for the development of investigatory strategies lie at this stage?

60. Were you aware on 3 May, or at any point subsequently, of any concerns expressed by staff or officers from Police Scotland about PIRC's management of the investigation? If so, how were you made aware, and what did you understand those concerns to be? Did you share knowledge of these concerns with others at PIRC? What did you do, if anything, to address those concerns?

Meeting with DCI Houston

61. Your PIRC statement (PIRC-00358), at page 3, refers to PIRC staff meeting with DCI Stuart Houston to discuss "*the specifics of Scene Management arrangements*". John Ferguson's PIRC statement (PIRC-00363), at page 3, states that during a meeting with DCI Houston at 1515 hours "*agreement was reached on how the now deceased's body would be dealt with at the hospital*". What was discussed with DCI Houston at this meeting? What was agreed? What, if any, instructions or direction did you and John Ferguson provide to DCI Houston at this meeting in relation to the scene at Victoria Hospital and the recovery of Mr Bayoh's body?
62. What discussions, if any, took place at this meeting in relation to the status of the police officers as witnesses?

Meeting at 1645 hours

63. Did you attend the forensic strategy meeting at 1645 hours on 3 May 2015? If so, what was discussed at this meeting? What was agreed? Did PIRC adopt Police Scotland's forensic strategy (PS01298) in its entirety at this meeting? Were you content with the strategy set out in relation to the recovery of Mr Bayoh's body (PS01298, page 3) and within the minutes from the forensic strategy meeting (PS01298, page 6)? If not, why not?
64. Beyond the forensic strategy, what further strategies, if any, were put in place in relation to scene management during the course of PIRC's investigation?
65. Is it standard practice for PIRC's investigative strategies to be based on those created by Police Scotland? If so, what are the benefits of this approach? If not, why was this approach adopted in this investigation?
66. Could an approach have been agreed with Police Scotland in relation to the scene at Victoria Hospital, and in relation to the recovery of Mr Bayoh's body, prior to this meeting at 1645 hours? If not, why not? If so, what impact, if any, did the delay in agreeing an approach have on PIRC's investigation?
67. Alex McGuire's notebook (PIRC-04184), at page 5, under the heading "1645 Forensic Strategy mtg", states:

Religious considerations.

What consideration was given to Mr Bayoh's religion at this forensic strategy meeting? What consideration, if any, did you give to Mr Bayoh's and/or Mr Bayoh's family members' religion(s) on 3 May 2015? As at 3 May 2015, what awareness did you have of the impact

that a deceased's religion might have on the recovery of their body or their post-mortem? What, if any, training had you received in this regard? What, if any, written guidance was available to you in this regard?

68. Within DCS Boal's operational statement (PS00669), on page 3, she states:

About 1700hrs I attended the Forensic Strategy Meeting which, albeit all PIRC investigators were present, was chaired by Detective Chief Inspector HOUSTON.

Within the forensic strategy meeting agenda (PS17896), at page 1, DCI Houston is also noted as being the chairperson of this meeting.

Would you agree that DCI Houston chaired this forensic strategy meeting? Why was it considered more appropriate for the meeting to be led by DCI Houston, rather than PIRC? Who was in charge of the scenes at Hayfield Road and Victoria Hospital at this point on 3 May 2015?

69. Within DCI Houston's operational statement (PIRC-00165), page 3, DCI Houston refers to it being agreed at this meeting that you and John Ferguson would "*accompany Detective Constable Grady to recover the deceased*". How was the responsibility for the recovery of Mr Bayoh's body split between DC Peter Grady and yourself and John Ferguson? Following a death in police custody and COPFS's instruction of PIRC to investigate, why was it necessary for DC Grady, and Police Scotland more generally, to be involved in the recovery of Mr Bayoh's body?

Meeting at 1800 hours

70. Your PIRC statement (PIRC-00358), at page 3, refers to a meeting you attended with John Ferguson, DC Grady, Senior Scene Examiner Gordon Young and Scene Examiner Judith Harley of the Scottish Police Authority (SPA). What was discussed at this meeting?

71. How did PIRC's role in the investigation interact with the roles of the scene examiners from SPA on 3 May 2015? Between PIRC and the scene examiners, who led the recovery of evidence from Mr Bayoh's body on 3 May 2015?

72. Your PIRC statement (PIRC-00358), at page 3, notes:

Cultural considerations (sought by Inv Ferguson to Procurator Fiscal via DC Grady) As this was a Crown directed investigation it was decided that there was nothing that would impinge on the recovery of evidence at this time.

John Ferguson's PIRC statement (PIRC-00363), at page 4, notes:

Clarification on this this was sought re cultural considerations by me to the PF via police witness DC Peter Grady. This resulted in the agreement that the recovery would be sensitively carried out and further discussion may be required at the mortuary with the Pathologist.

Which "cultural considerations" were identified and discussed? What was decided in this regard? Who made this decision? In what way was the recovery of Mr Bayoh's body to be "*sensitively carried out*"? What does it mean that "*As this was a Crown directed investigation it was decided that there was nothing that would impinge on the recovery of evidence at this time*"? In this investigation, what might have impinged on the recovery of evidence?

Attendance at Victoria Hospital

73. Your PIRC statement (PIRC-00358), at page 4, refers to you and John Ferguson attending the scene at Victoria Hospital at 1900 hours on 3 May 2015. Was this the first time that you attended Victoria Hospital on 3 May 2015? If so, why did you first attend the scene at Victoria Hospital on the evening of 3 May 2015 when you had been tasked by DSI Harrower with management of that scene in the morning and arrived at Kirkcaldy around 1400 hours? What impact, if any, would your arrival at this scene earlier on 3 May 2015 have had on the investigation? What are the benefits of managing a scene at the locus itself, instead of remotely?
74. Beyond the meetings and discussions noted above, what other tasks required to be completed at Kirkcaldy Police Office prior to your attendance at Victoria Hospital?
75. The PIRC Scene Management SOP that was in force in May 2015 (PIRC-03873) identifies, at paragraph 1.3.3, the process to be followed to identify if any additional resources are necessary to manage a scene. Were you content on 3 May 2015 that sufficient resources were available to manage the scene at Victoria Hospital? If not, why not?
76. Following your arrival, what steps did you take to manage the scene at Victoria Hospital and to progress the recovery of Mr Bayoh's body?
77. Your PIRC statement (PIRC-00358), at page 4, identifies that you were met by DCs Ryan Balsillie and DC Andrew Brown upon your entry to the hospital. You identify that neither of these officers had been forensically dressed whilst they had been in the room where Mr Bayoh was situated. What was your view in relation to these officers not being forensically dressed? Were you content with the explanation provided by the officers? If not, why not? What is best practice in this regard? Why is this best practice? What impact, if any, did the fact that the officers were not forensically dressed have on PIRC's investigation and the recovery of evidence from Victoria Hospital?
78. John Ferguson's PIRC statement (PIRC-00363), at page 6, identifies that four samples of blood were within the room in which Mr Bayoh was located and were "*contained within 1 orange plastic bag which was neither sealed nor labelled*". Was this best practice? If not, why not, and what impact, if any, did this have on the recovery of evidence from Victoria Hospital?
79. The scene management log for Victoria Hospital (PIRC-01464), at page 9, identifies that no outer cordon was in place at that scene. On the same page it is identified that no scene entry log was in place "*due to limited access*". Should an outer cordon and/or a scene entry log have been in place for the scene at Victoria Hospital? If so, why, and what impact, if any, did the failure to put either or both of these in place have on the investigation?
80. PIRC's Scene Management SOP (PIRC-03873), at page 12, as part of an appendix titled "*Considerations when attending an incident in the capacity as a PIRC scene manager*", states that "*PIRC will begin and maintain a scene entry log*". What consideration, if any, was given to PIRC commencing its own scene entry log for the scene at Victoria Hospital on 3 May 2015? Why was no such PIRC scene entry log created?
81. Who compiled the scene manager's log (PIRC-04173)? What involvement did you have in this process? What was the purpose of the scene manager's log? Was this log compiled contemporaneously?
82. The scene manager's log (PIRC-04173), pages 79 – 119, contains a review of the management of various scenes, including, at points, PIRC commentary on the

management of those scenes. Who carried out these reviews? Was a similar review carried out in relation to the scene at Victoria Hospital and the recovery of Mr Bayoh's body? If not, why not?

83. Your PIRC statement (PIRC-00358), at page 8, identifies that productions recovered at Victoria Hospital were handed over to DC Peter Gilzean at Kirkcaldy Police Office at 2255 hours on 3 May 2015. Why was it necessary for the productions to be handed over to Police Scotland, rather than retained by PIRC? Is it normal practice for Police Scotland to retain the productions seized following a death in police custody?
84. Were you content with the steps taken by Police Scotland to recover and preserve evidence from the locus at Victoria Hospital on 3 May 2015? If not, why not? What, if anything, should Police Scotland have done differently in this regard?
85. Your PIRC statement (PIRC-00358), at page 8, identifies that Mr Bayoh's body was taken to Edinburgh City Mortuary by an undertaker and the "*private ambulance transfer was followed by Inv Ferguson and myself who remained with the deceased throughout to maintain integrity*". Your notebook (PIRC-04198), at page 5, identifies that you and John Ferguson "*followed the private ambulance to Edinburgh City Mortuary, keeping it in sight at all times*". To ensure that the chain of custody is maintained, is it sufficient to keep the ambulance in which a deceased's body is being transported in sight? Is it best practice to proceed in this fashion, rather than travel in the ambulance along with the body itself? If so, why? If not, why was this not done on this occasion?

Primary control of scene

86. PIRC's Scene Management SOP (PIRC-03873), at page 10, as part of an appendix titled "*Handling of Shared Scenes by Police Service of Scotland (PSS) and the Police Investigations and Review Commissioner (PIRC)*", states:

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

At what point on 3 May 2015 did you consider that PIRC had "primary control" of the scene at Victoria Hospital? Please explain why you hold this view.

PIRC investigation on 3 May 2015

87. In hindsight, what, if any, decisions would you have made differently in relation to the management of the scene at Victoria Hospital and the recovery of Mr Bayoh's body on 3 May 2015? What impact would this have had on PIRC's investigation?
88. Were you content with the decisions taken by PIRC's investigators who attended Kirkcaldy on 3 May 2015? If not, why not?
89. Were you content with the support that you received from Police Scotland in relation to PIRC's investigation on 3 May 2015? If not, why not? What impact did this have on PIRC's investigation?
90. Did you have any contact with the COPFS on 3 May 2015, or subsequently during the investigation? If so, what was the nature of this contact? Were you content with the direction, instruction and support that PIRC received from COPFS in relation to PIRC's investigation on 3 May 2015 and throughout the investigation? If not, why not?

91. Did you consider that you and your colleagues, as PIRC investigators, had sufficient powers to progress the investigation on 3 May 2015? If not, why not? What additional powers would you and your colleagues have benefited from to progress the investigation?
92. What, if any, hypotheses did PIRC have in relation to the incident on 3 May 2015? On 3 May 2015, did you give consideration to whether race could be a factor in the incident? If so, in what way? If not, why not?
93. Did you consider that the police officers with whom you had contact on 3 May 2015 had an awareness and understanding of PIRC as an organisation and PIRC's role within the investigation? If not, what, if any, steps did you take to address this on 3 May? What impact, if any, did the officers' awareness, or lack thereof, of PIRC's role have on the investigation? Following the establishment of PIRC on 1 April 2013, and prior to the incident on 3 May 2015, what steps had been taken to raise awareness and understanding amongst police officers of PIRC as an organisation and PIRC's role within an investigation?
94. A briefing note was prepared for PIRC's Director of Investigations in relation to the events of 3 May 2015 (PIRC-03694). What role, if any, did you have in preparing this document?
95. Did you have any communication with representatives from the Scottish Police Federation (SPF) on 3 May 2015? If so, with whom did you communicate and what did you discuss?
96. Did you liaise with or speak to the media on 3 May 2015, or otherwise during the investigation? If so, in what way did you liaise with the media and to whom did you speak?
97. On 3 May 2015, what awareness, if any, did you have of media coverage surrounding the incident? What awareness, if any, did you have of reports of a female police officer being stabbed and the source of those reports? What, if anything, did you do in response to those reports? Were you aware of any details of the incident on social media?

Monday 4 May 2015

98. Your notebook (PIRC-04198), at page 5, identifies that you attended Hamilton House at 0800 hours on this day. Did you attend a briefing on the morning of 4 May 2015 at PIRC's office? Who delivered this briefing? Do you remember what was said? If so, please provide details.
99. Was DSI William Little put in charge of the investigation at this briefing? If not at this briefing, do you know when was this formally confirmed? Why was DSI Little put in charge of the investigation at this stage? At what point was SI John McSporran put in charge of the investigation alongside DSI Little?
100. Do you recall what handover you and other members of PIRC staff who were involved in the investigation on 3 May 2015 provided to DSI Little? If so, please provide details. What involvement did you have in this handover?
101. An extract from DS Campbell's evidence to the Inquiry (day 49, page 73, line 5) is as follows:

A. I think -- sorry, I think the problem with the PIRC deployment at that stage, other than the resources, is that over the course of 24, 36 hours they changed the lead investigator. So Keith had --

Q. *What issues did that cause?*

A. *Just obvious challenges, the fact is you're bringing someone on fresh into the investigation when you've been there for 12, 13 hours at that stage, you know what I mean, before that ... before Billy Little's appointed around that. So again, there was challenges with the fact that the change of a senior investigator from PIRC at such an early stage of a critical investigation would undoubtedly cause challenges.*

Do you agree with DS Campbell that the handover of responsibility for the investigation to DSI Little caused “challenges”? If so, what were these challenges and what did PIRC do to mitigate them? If not, why not?

Post-mortem

102. Your PIRC statement (PIRC-00358), at page 9, identifies that you were present at Mr Bayoh’s post-mortem on 4 May 2015. Why did you attend the post-mortem? What was your role at the post-mortem?

103. What was PIRC’s involvement in the post-mortem examination on 4 May 2015? Was this normal practice for PIRC? In 2015, was PIRC’s involvement in relation to a post-mortem governed by any SOP? If so, please identify the SOP in question.

104. Were you present when the pathologist was briefed in relation to the circumstances surrounding Mr Bayoh’s death? If so, what information was passed to the pathologist during this briefing? Who provided this briefing? Are you content that the information passed to the pathologist was comprehensive and accurate?

105. Who created the document titled “*Pathologist Briefing*” (COPFS-02540)? What was the purpose of creating this document? Was this document created to allow John Mitchell to provide Les Brown with details of the briefing on 20 May 2015 (PIRC-02955, pages 2 – 3)? If not, why was this document created? Does this document accurately set out the information that was provided to the pathologist on 4 May 2015? If not, what information is missing or inaccurate?

106. Your PIRC statement (PIRC-00358), page 9, identifies that the topic of excited delirium was raised in a discussion between yourself, John Ferguson and Dr Kerryanne Shearer at 1230 hours. Who first raised the topic of excited delirium? What was discussed in this regard? What awareness did you have in relation to excited delirium at this time?

107. Your PIRC statement (PIRC-00358), at page 9, identifies that at 1245 hours DCs Peter Grady and Peter Gilzean arrived at the mortuary, but did not have a death report or the medical notes from the hospital to be provided to the pathologist. What impact, if any, did this have on the post-mortem and PIRC’s investigation?

108. The scene manager’s log (PIRC-04173), at page 23, identifies that:

DC Grady was not present at the PIRC briefing this time but later spoke to K. Shearer privately prior to the PM out with PIRC Hearing.

Why did DC Grady speak privately with Kerryanne Shearer prior to the post-mortem taking place? Did you consider it appropriate that he did so? If not, why not?

109. Your PIRC statement (PIRC-00358), at page 9, states:

DSI Harrower had previously informed Inv Ferguson and I that the deceased's family were not engaging with PIRC and that they would not be in attendance at the Mortuary to carry out identification of the deceased.

What was your understanding of the relationship between Mr Bayoh's family and PIRC at the point the post-mortem took place? In what way did you understand Mr Bayoh's family not to be engaging with PIRC? What was discussed with COPFS in this regard?

110. Were you aware at the time that the post-mortem took place of any suggestion that the family had requested that the identification of Mr Bayoh's body be delayed pending the arrival of other family members? If so, how were you made so aware and what was discussed in this regard? If you were aware of the family's wishes, do you know why the post-mortem went ahead when it did?
111. What involvement, if any, did you have in compiling the scene management log for the mortuary (PIRC-01465)? What was the purpose of this scene management log?
112. Within the scene management log (PIRC-01465), at page 23 of the pdf, why is it noted that Collette Bell confirmed Mr Bayoh's identity when she was not present at the post-mortem to participate in a formal identification of his body? Is it normal practice for reliance to be placed on a prior identification when completing this section of the scene management log? If not, why was reliance placed on a prior identification on this occasion?
113. An "Officers Note" was subsequently prepared in relation to the post-mortem (PIRC-04148). Who prepared this note? What, if any, involvement did you have in preparing this note?
114. The note (PIRC-04148), at page 2, identifies that:

The area of cultural issues was highlighted with DCI Hardie confirming that the deceased was Muslim, again the pathologist were happy to proceed after being advised by Mr Ablett that the investigation would take precedent.

Your PIRC statement (PIRC-00358), at page 9, states:

Amongst the various topics discussed were ... the need to take samples of hair (possible cultural implications as deceased believed to be muslim) to prove/disprove chronic drug use.

What awareness did you have of Mr Bayoh's religion at this stage of the investigation? Was it known that he was Muslim, or was he "believed to be" Muslim? What discussions took place in relation to Mr Bayoh's religion and the impact that that may have had on the post-mortem? What, if anything, was done to address any concerns or sensitivities identified in this regard?

115. In what way was the pathologist advised by Bernie Ablett that the investigation would take precedence in this regard? During a post-mortem, is it normal practice for an investigation to take precedence over any cultural or religious sensitivities associated with a deceased person? If not, why did it take precedence on this occasion?
116. The scene manager's log (PIRC-04173), at page 24, identifies that:
- Discussion took place (KeryanneShearer [sic] to IO Ferguson) during the PM and technician present, that in some cases female members of Muslim families have been*

known to in the past attend at the mortuary and wash the body. This however was identified as rare.

At the time of the PM there was no other religious concerns made known to investigators by family members.

From information provided later by IO Lewis (FLO PIRC) no cultural issues where [sic] raised by Mr and Mrs Johnson.

Whilst “no other religious concerns” had been made known to PIRC’s investigators by Mr Bayoh’s family members, at the time of the post-mortem what, if any, steps had PIRC taken to ask Mr Bayoh’s family if they had any concerns in relation to the post-mortem on account of Mr Bayoh’s religion? Should PIRC have proactively sought this information from Mr Bayoh’s family prior to the post-mortem taking place?

117. The note (PIRC-04148) identifies that DC Gilzean, DC Grady and DCI Hardie were present at Mr Bayoh’s post-mortem. Following a death in police custody, is it common for the post-mortem of the deceased to be attended by police officers? If not, why were police officers in attendance at Mr Bayoh’s post-mortem? What purpose is served by police officers attending a post-mortem following a death in custody?
118. In your experience, what is the normal period of time between a death in custody or death following police contact occurring and a post-mortem taking place? Who did you understand was ultimately responsible for the decision that the post-mortem would go ahead on 4 May?
119. What discussions, if any, took place in relation to informing the family of the results of the post-mortem? What was agreed in this regard? How were the family to be informed? Who was responsible for informing the family?
120. Are you aware of when the family was informed that the post-mortem had taken place? When were the family so informed? Was the family informed directly, or via their legal representative? Who informed the family or their legal representative that the post-mortem had taken place? How did you become aware that the family had been informed that the post-mortem had taken place?
121. Your PIRC statement (PIRC-00358), at page 11, states that 1900 hours there was a discussion between John Ferguson, DC Grady and DC Gilzean and yourself in relation to productions in which there was a “*re-emphasis that PIRC must be sighted in all decisions relative to this enquiry*”. What was discussed in this regard? Why was it necessary for there to be a “re-emphasis” of this point? Were PIRC sighted in all decisions made by Police Scotland in relation to the productions relevant to this investigation? If not, why not?

6 May 2015

122. Your notebook (PIRC-04198), page 7, identifies that you met with DCI Houston along with John Ferguson at 1700 hours regarding “*scene management/forensics*”. What was discussed at this meeting? Following the expansion of PIRC’s terms of reference on 5 May 2015 to incorporate the events prior to Mr Bayoh’s arrival at Hayfield Road, did this meeting with DCI Houston constitute a handover of responsibility for scene management from Police Scotland to PIRC? If so, were you content with the handover and assistance provided by Police Scotland in this regard? If not, why not?

8 May 2015

123. You were present when Investigator Brian Dodd took a statement from Martyn Dick (PIRC-00031). Mr Dick does not appear to have been asked whether he provided consent to Police Scotland's seizure of his property on 3 May 2015. What consideration, if any, was given to asking questions of Mr Dick to clarify the legal basis upon which his property was seized by Police Scotland? Later in the investigation, was consideration given to obtaining a further statement from Mr Dick to explore this line of questioning? If not, why not?

12 May 2015

124. Your PIRC statement (PIRC-00358), at pages 13 – 14, refers to your attendance at a forensic strategy meeting with representatives from COPFS, Police Scotland, SPA, pathologists and other PIRC staff. What was the purpose of this meeting? Were any concerns raised about the recovery of evidence up to this point in the investigation? If so, what concerns were raised?

125. Who led this forensic strategy meeting? Were you content with the decisions made in relation to forensic strategy at this meeting? Was any forensic strategy agreed beyond that which is contained in PIRC-04161, PIRC-03860 and PIRC-04173 (pages 41 – 55)? If so, where is this forensic strategy documented? Who collated the separate minutes from the meeting set out in these three documents? Did you take the minutes contained within PIRC-03860?

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

14 May 2015

127. Within an email dated 14 May 2015 that you sent to [REDACTED], SPA (PIRC-02624), you state:

Having spoken to Gordon Young of SPA, following the Forensic Strategy Meeting held ... on 12/5/15, you are aware that the Crown has instructed that the PIRC has sole responsibility for the investigation into this matter and that any requests from Police Scotland in relation to this matter are not to be processed unless prior authorisation has been given directly (from PIRC) to SPA to allow this. My understanding is that you will be notifying your colleagues of this.

Prior to this point had requests been made by Police Scotland to SPA which, within the context of Crown-directed investigation following a death in custody, PIRC considered inappropriate? If so, what requests were made by Police Scotland? If not, why did this point require to be communicated to SPA? Did any further issues arise in this regard throughout the investigation?

26 May 2015

128. A Clue Action (PIRC-03024) identifies that on this day you met with Mark Gleeson, Airwave Communications Team Leader, to discuss the data contained within the Airwave Call Data Activity spreadsheets. What was the purpose of meeting with Mark Gleeson? What was discussed? How did this assist PIRC's investigation? Why PIRC not obtain a statement from Mark Gleeson to cover the guidance provided during this meeting?

4 June 2015

129. On 4 June 2015, you were present when Investigator Ross Stewart took a statement from Sergeant Scott Maxwell (PIRC-00266). When a statement is taken “in the presence of” a PIRC investigator, what is that investigator’s role within the interview? May that investigator ask questions of the witness? If so, what, if any, lines of questioning did you seek to explore with Sgt Maxwell?
130. In the process of this statement being taken from Sgt Maxwell, what, if any, contact did you have with your colleagues from PIRC who were taking statements from other officers on 4 June 2015 to allow the accounts received from the officers who attended Hayfield Road to be compared and contrasted for any gaps or inconsistencies? If you did have such contact with your colleagues, in what way did that influence the lines of questioning that were put to Sgt Maxwell when taking his statement?
131. Was Sgt Maxwell’s statement obtained in line with PIRC’s witness interview strategy (PIRC-04182)? If so, what involvement, if any, did you have in the preparation of the witness interview strategy? Was it standard practice for PIRC to obtain statements from witnesses using a document of this nature? Prior to Sgt Maxwell’s statement being taken, did you have any discussions with other PIRC staff in relation to the lines of questioning to be explored with Sgt Maxwell and/or the other officers that attended Hayfield Road? If so, what was discussed?
132. The questions contained within the witness interview strategy (PIRC-04182) largely focus on the “what”, “when”, “who” and “where” of the circumstances of the incident. Only two questions ask the officers “why” certain actions were taken – why use of force and CS/PAVA forms were not completed and why there are no entries in the officers’ notebooks in relation to the incident. When preparing to take the officers’ statements, was consideration given by PIRC to asking the officers why they took certain decisions or chose particular tactical options in responding to the incident involving Mr Bayoh? If not, why not?
133. The Police Service of Scotland (Conduct) Regulations 2014, within Schedule 1, identify that as part of the Standards of Professional Behaviour with which officers require to comply:

Constables use force only to the extent that it is necessary, proportionate and reasonable in all the circumstances.

How important is understanding why officers took certain decisions or chose particular tactical options to a determination as to whether or not a use of force was necessary, proportionate and reasonable in all the circumstances?

134. There are no questions relating to the impact that Mr Bayoh’s race may or may not have had on the officers’ response to the incident. What consideration, if any, was given to including questions within the witness interview strategy in this regard?
135. The minutes from PIRC’s morning briefing on 3 June 2015 (PIRC-04156), at page 40, with reference to an update that DSI Little provided, state:

A generic interview plan has been completed by IO Sinclair. Everyone has to do their own individual reading for their specific officers to add to the generic plan.

What material did investigators require to read in addition to the witness interview strategy when preparing to interview the officers? What material did you read prior before Sgt Maxwell's statement was obtained in your presence?

136. The minutes from PIRC's morning briefing on 3 June 2015 (PIRC-04156), at page 40, identify that there would be a "*further meeting this afternoon to discuss tomorrow's interviews*". Did you have any discussions with other PIRC staff in relation to the lines of questioning to be explored with the officers? If so, what was discussed? With whom did you have those discussions?
137. A separate version of the witness interview strategy (COPFS-05955) contains your own notes in relation to the interview of Sgt Maxwell. What was the purpose of taking these notes? What is the distinction between the notes made in red and those made in black? Were PIRC's investigators encouraged to add their own questions to the witness interview strategy prior to or during the interview? Were PIRC's investigators encouraged to ask "why" the officers took certain decisions or actions during the incident, despite questions in that regard not being explicitly set out within the witness interview strategy?
138. Following a death in custody or a death following police contact, was it common for officers to be re-interviewed by PIRC after they had already been interviewed by PIRC? After Sgt Maxwell's PIRC statement had been obtained (PIRC-00266), did you consider that there were any matters that required to be clarified with Sgt Maxwell? If so, what were these matters?
139. In the course of Sgt Maxwell's interview on 4 June 2015 (PIRC-00266, page 10), you received a statement from Sgt Maxwell that he had prepared in the days following the incident (PIRC-00267). What, if any, comparison did PIRC carry out between the accounts contained within Sgt Maxwell's two statements to identify areas of consistency and inconsistency? What, if any, involvement did you have in this process?
140. Did PIRC compare and contrast the statements received from the officers that attended Hayfield Road to identify areas of consistency and inconsistency? What involvement, if any, did you have in this process?
141. What consideration, if any, was given to taking further statements from the officers to question inconsistencies between their respective accounts? Why were further statements not taken from the officers to clarify inconsistencies between different witnesses' accounts?
142. After Sgt Maxwell provided his statement, PIRC's terms of reference were expanded by COPFS to look at whether there was inappropriate conferral between police officers and to investigate issues of race and conduct. What consideration, if any, was given to obtaining further statements from the officers that attended Hayfield Road to explore these areas with the officers? Why was it decided that further statements did not require to be obtained? Whose responsibility was it to decide if further statements required to be obtained from any of PIRC's witnesses?
143. Had you dealt with a situation prior to May 2015 in which officers did not provide statements for several weeks after an incident? What was the outcome? Have you dealt with such a situation since May 2015? What was the outcome?

29 June 2015

144. Your PIRC statement (PIRC-00358), at page 21, identifies that, alongside DSI Ian McIntyre, you produced a document titled "*ARL (GPS) Analysis of Officer's Movements*",

at SI McSparran's request. Please can you confirm that this document is PIRC-03842. You also seized a document titled "ARL Report of Officer and Vehicle Movements" from John Wilson, Police Scotland Communications Team Leader, on 2 July 2015 (PS17474). How did PIRC use Automatic Resource Location (ARL) data to plot the officers' movements on 3 May 2015? What involvement did you have in this process? To what extent were you able to use the ARL data obtained during PIRC's investigation to corroborate or challenge the accounts of the officers within their statements?

3 July 2015

145. Your PIRC statement (PIRC-00358), at pages 22 and 23, identifies that you produced documents titled "Combined Airwave Call Activity Data (Kirkcaldy 01) and Transcription" (PIRC-01396) and "Transcript of Police Scotland Airwave Talkgroup 'Kirkcaldy 1' on 3rd May 2015 between 0600 and 0800 GMT" (PIRC-01399). How did you create these documents? What data and information did you use? How did you attribute the Airwave transmissions to particular officers within these documents? Why were you tasked with producing these documents? What support and oversight did you receive from colleagues when completing these documents? Did any colleagues check the transcripts that you produced?

146. What steps, if any, were taken to compare and contrast the officers' accounts within their statements with the Airwave transcripts you produced, both to review the accuracy of the Airwave transcripts themselves and to corroborate or challenge the officers' accounts of the incident? What involvement did you have in this process? Who within the investigations team was responsible for instructing analysis of this nature?

147. The minutes from PIRC's morning briefing on 26 May 2015 (PIRC-04156), at page 26, with reference to an update that you provided regarding the completion of the Airwave transcripts, state:

There appears to be a missing section after the emergency button is pressed, so he will clarify this with the SPA.

What issue did you identify here in relation to the Airwaves? What clarification did you receive from the SPA? What impact, if any, did this have on the Airwave transcripts you produced?

148. The minutes from PIRC's morning briefing on 2 June 2015 (PIRC-04156), at page 37, with reference to an update that you provided regarding the completion of Airwave transcripts, state:

- *A few anomalies, but working through them.*
- *A draft transcript document is available for the interviews, however it has not been corroborated, so cannot be used as a production yet.*

What anomalies did you identify in relation to the Airwave transcripts? How were these anomalies clarified or resolved? How was the draft Airwave transcript used by investigators in the officers' interviews?

149. Later in the investigation, within a letter dated 27 April 2017 from DSI Little to Alasdair MacLeod, COPFS (PIRC-02069(a)), it is identified that within the Airwave transcripts (PIRC-01396, page 5 and PIRC-01399, page 6) the transmission "Officer down. PC Short, male" was wrongfully attributed to PC Alan Smith and should instead have been attributed to PC Alan Paton. How did this error occur? What impact did this have on PIRC's

investigation? Following the identification of this error, what steps, if any, did PIRC take to confirm that the other transmissions noted within the transcripts were accurately transcribed and attributed to the correct officers?

2017 – 2018

Airwave

150. You received an email from John Wilson dated 3 April 2017 (PIRC-02720(c)), containing responses to a number of queries you had raised in relation to the functionality of the Airwave system. What prompted you to seek answers to these questions in March 2017? Were John Wilson's responses sufficient to successfully complete this line of inquiry? If not, what matters remained unresolved in this regard?
151. You took a statement from Pauline Donaldson, Airwave Communications Officer, on 21 December 2017 (PIRC-00285). You thereafter took a statement from Colin Gill, Airwave Services Coordinator, on 14 February 2018 (PIRC-00507). Mr Gill also provided a short report in relation to technical aspects of the Airwave system at this time (PIRC-03838). What prompted these lines of inquiry to be explored with Ms Donaldson and Mr Gill at this time? Was the evidence obtained from Ms Donaldson and Mr Gill sufficient to successfully complete this line of inquiry? If not, what matters remained unresolved in this regard?
152. What impact, if any, resulted from you not having this information available to you when you carried out analysis and transcription of the Airwave transmissions in 2015?
153. On 15 January 2018, you produced a document titled "*Airwave Point to Point and Telephony Analysis*" (PIRC-03839), which includes a summary of point-to-point Airwave calls made by officers involved in the incident involving Mr Bayoh between 0700 hours and 0900 hours on 3 May 2015. What was the purpose of analysing the officers' point-to-point calls? Why was this considered necessary at this point of the investigation? How did you go about the task of identifying the calls made by the officers? Was this using the data provided to you by Pauline Donaldson by email on 18 December 2017 (PIRC-03833)? What was done with the analysis once you had collated it and how was it incorporated into the investigation?
154. The information contained within the analysis (PIRC-03839) identifies that, for example, PC Craig Walker received a call from Austin Barrett at 07:50:41, PC Alan Smith made calls to Sgt Scott Maxwell at 07:54:27 and 08:31:40, and PC James McDonough made calls to PC Daniel Gibson at 07:52:04 and DS Samantha Davidson at 08:18:46. What consideration, if any, was given to obtaining statements from the officers concerned to identify why these point-to-point calls were made?
155. The analysis (PIRC-03839) summarises point-to-point calls made between 0700 and 0900 hours on 3 May 2015. Data provided for Sgt Scott Maxwell (ISSI number 6550349) identifies that he made various point-to-point calls after 0900 hours on 3 May 2015, including to: DI Colin Robson (ISSI number 6550919) at 09:20:58; PC Alan Paton (ISSI number 6550694) at 08:24:25, 08:24:39 and 08:24:45 (all calls apparently unanswered); PC James McDonough (ISSI number 6550435) at 08:24:54; and DS Samantha Davidson (ISSI number 6550918) at 10:43:57 (PS17396). What consideration, if any, was given to expanding the scope of the analysis to include point-to-point calls made later on 3 May 2015? Why did the analysis not cover the calls made after 0900 hours on 3 May 2015?
156. Within his Inquiry statement (SBPI-00036, paragraph 88), PIO Stephen Kay states: "*At that time I'm sure I shouted up to control to say that there was to be no point to point. If*

we do point to point, it doesn't come over the airwaves, and I said keep it transparent, make sure everything's recorded". What concerns, if any, did PIRC have about a lack of transparency surrounding the officers' use of point-to-point calls to communicate on 3 May 2015? Were these concerns communicated to COPFS? If so, to whom?

Examination of Ashley Wyse's phone

157. On 21 February 2018, you sought guidance from COPFS in relation to PIRC's examination of the download of Ashley Wyse's phone (PIRC-02587). You sought guidance as to whether COPFS was content for PIRC to only examine the files from the download that related to the incident on 3 May 2015 (as opposed to all files from that date). On 27 February, Les Brown replied and stated:

PIRC should pursue all legitimate investigative avenues in order to legally obtain and evaluate evidential material that assists in the inquiry instructed by the Crown.

What were your thoughts on receipt of this email? Were you satisfied with this response? In your experience, was this level of guidance characteristic of the guidance provided by COPFS across PIRC's investigation?

158. On 27 February you forwarded this exchange to DSI Little and there follow emails within the same chain between DSI Little and SI McSporrán in relation to the examination of Miss Wyse's phone (PIRC-02587). Within his email dated 12 March 2018, SI McSporrán states, with reference to the download from Miss Wyse's phone:

Examine all the material to determine whether it has a bearing, if it has, produce it as evidence.

Were you made aware of SI McSporrán's instruction to examine the full download from Miss Wyse's? Did you understand his reasoning? Did you agree with SI McSporrán's rationale in relation to the examination of the phone? If not, why not? What, if any, further discussion was there between PIRC staff in relation to this matter, beyond the discussion within this email chain?

159. Why was further examination of the data contained within Miss Wyse's phone required in 2018? How was the analysis of this data incorporated into the investigation? What steps, if any, had been taken by PIRC prior to this point to establish the timings of Ashley Wyse's Snapchat videos to allow this evidence to be factored into the interpretation of events during Mr Bayoh's restraint? What, if any, involvement did you have in this process?

160. Within an email dated 15 March 2018 from you to Fiona Carnan, COPFS (COPFS-06313) you state:

It would appear following our initial examination that the Snapchat videos are not going to be able to be timed accurately from the information contained on the phone or its memory card.

What steps did PIRC take to establish the timings of Ashley Wyse's Snapchat videos in 2018? What involvement did you have in this process? Was PIRC ultimately able to confirm the timings of the Snapchat videos, relative to other evidence, such as the CCTV from Gallagher's Pub? If not, what impact did this have on the investigation?

161. Within a letter dated 21 March 2018 from DSI Little to Les Brown, COPFS (PIRC-02081(a)), at page 5, it is identified that you examined data on Miss Wyse's phone before

data considered relevant to the incident was passed to Police Scotland's Cybercrime Unit. How did you examine the data contained within Ashley Wyse's phone? Upon what basis did you distinguish data that was relevant to the incident from data that was irrelevant?

162. What involvement did you have in relation to the preparation of a "joint report" by Peter Benson, Police Scotland Cybercrime Unit, in relation to the data contained within Ashley Wyse's phone (as referred to within PIRC-00510, page 2)? How was the examination of this data, and the production of Mr Benson's report, incorporated into PIRC's investigation?
163. Within Peter Benson's statement dated 15 May 2018 (PIRC-00510), at page 4, with reference to the examination of the data within Miss Wyse's phone:

It was noted during the examination that chat activity was present after seizure. Chats and other messages on the phone after the seizure date are likely to be down to poor seizure discipline. Phones should always be switched off after seizure. If they are left on and connected to the network messages will continue to come in to them and apps which can sync with other devices will update.

...

It was also noted that the device had connected to a Wireless Network 'InfraTechUKLtdPoint2' at 16:42 on 06/05/2015 and on 02/06/2015 at 11:40 and again at 11:45.

Within an email dated 10 April 2018 addressed to you (PIRC-03834), Peter Benson speaks to the data which appeared on Miss Wyse's phone following its seizure, stating:

It would be foolish to fail to mention what seems to have happened when the device was out of our hands and possible [sic] yours. If there is a reason for the activity that can be explained i.e. someone switched it on to look for something let me know and I can add something in. If I do not mention it in some form then any future defence examination will attempt to use it to discredit the seizure and examination – they may still but at least we are being up front.

How did chat activity post-dating the seizure of Miss Wyse's phone come to be included in the data downloaded from her phone? Was this matter explored with Infratech, as instructed within an email you sent to Kevin Rooney on 12 April 2015 (PIRC-02588)? If so, what were the results of this line of inquiry? If not, why not?

164. Do you agree with Peter Benson that this issue resulted from "poor seizure discipline"? Who was responsible for the seizure and handling of Miss Wyse's phone? What should have been done differently to ensure that this issue did not arise? What, if any, impact did this have on PIRC's investigation, and any reliance placed on the data contained within Miss Wyse's mobile phone? What, if any, change of practice resulted from this?
165. During the investigation, were there other occasions where the seizure and handling of productions was not carried out in accordance with PIRC's SOPs (including PIRC's *Production/Articles SOP* [PIRC-04450]) or best practice? If so, what were the circumstances and in what way were productions handled contrary to PIRC's SOPs and best practices?

Statements

166. On 5 and 6 February 2018 you were present when statements were obtained from Alisdair Shaw and David Agnew (PIRC-00501 and PIRC-00503 respectively). What was the purpose of taking these statements at this stage of the investigation? What lines of questioning required to be pursued with these witnesses? Were these lines of inquiry covered within PIRC's original investigation? If not, why not?

Investigation overall

167. On 10 August 2016, PIRC submitted its report to COPFS. Did you have any involvement in writing the report? If so, what was your involvement?

168. Were you content with the support and direction that you received from your colleagues at PIRC, including colleagues in positions senior to you, throughout the investigation? If not, why not?

169. What roles did Irene Scullion (Head of Investigations), John Mitchell (Director of Investigations) and Kate Frame (Commissioner) play in the management of the investigation? What level of oversight did they have over the investigation? How was that oversight maintained?

170. Who at PIRC do you consider was ultimately in charge of the investigation following the incident involving Mr Bayoh? Please explain why you hold this view.

171. Beyond the points covered above, what further involvement, if any, did you have in the investigation?

Equality and diversity

172. How diverse was PIRC as an organisation in 2015? How has the level of diversity at PIRC changed between May 2015 and now, if at all?

173. Who was responsible for diversity and inclusion matters at PIRC in 2015? Who is responsible for such matters now?

174. Has any PIRC policy or practice relating to equality and diversity changed following the Bayoh investigation? If so, which policy or practice has changed and in what way?

Race

175. Was anything you have stated above done or not done because of Mr Bayoh's race?

176. Prior to 3 May 2015, what experience, if any, did you have of investigations of deaths in custody or deaths following police contact in which the deceased was someone from an ethnic minority? Since 3 May 2015, with the exception of the investigation following the death of Mr Bayoh, what experience do you have such investigations?

177. Prior to 3 May 2015, what experience, if any, did you have in deaths in custody or deaths following police contact in which race was a factor to investigate? As at 3 May 2015, had you ever acted in a PIRC investigation in which the issue of race was within your terms of instruction?

178. Prior to 3 May 2015, had PIRC ever considered the issue of race within an investigation? If so, in what way was race a consideration? With the exception of the investigation following the death of Mr Bayoh, has PIRC considered the issue of race within an investigation since 3 May 2015? If so, in what way?

179. When PIRC's terms of reference were expanded by COPFS to include issues of race, what involvement, if any, did you have in this aspect of PIRC's investigation?
180. Prior to the instruction from COPFS to investigate issues of race, had you or anyone at PIRC given consideration to race being a factor in the incident? If so, in what way? If not, why not?
181. Is the race or ethnicity of a deceased person automatically considered by PIRC as part of an investigation following a death in custody or a death following police contact? If so, in what way? If not, is the deceased's race or ethnicity only considered when directed by COPFS?
182. As at 3 May 2015, did PIRC record the race or ethnicity of the deceased person who was the subject of an investigation following a death in police custody or death following police contact? If so, how was such information recorded? If this information was not recorded, why was this? Have PIRC's procedures for recording a deceased person's race or ethnicity changed since 3 May 2015? If so, in what way?
183. What training had you completed by 3 May 2015 in relation to equality and diversity issues, or in relation to unconscious bias? What did this training involve? Which aspects of this training, if any, were applicable to your role? Would you have benefited from additional training in this regard? If so, in what way?
184. What areas were covered within the "Equalities" training that you received in October 2014 (PIRC-04577)? How much of this training was focused on race? Who provided this training and how was it delivered? In what ways, if at all, did this training assist you within your role as an investigator at PIRC? Have you received similar training since 2014? If so, please provide details.
185. The iHasco online training that you completed in April 2014 (PIRC-04577) is noted to have included a module covering "unconscious bias for employees". What areas were covered in this training? How much of this training was focused on race? In what ways, if at all, did this training assist you within your role as an investigator at PIRC? Have you received similar training since 2014? If so, please provide details.
186. During the Bayoh investigation, did you receive any training in relation to investigating an allegation that race had been a factor in an incident? Would you have benefited from additional training in this regard? If so, in what way?
187. What guidance or reference materials in relation to race were you aware of being available to you on 3 May 2015, had you wished to consult these? Would you have benefited from additional materials being available to you? If so, in what way?
188. What guidance, if any, do you recall receiving from senior members of staff at PIRC in relation to PIRC's investigation of issues of race? From whom did you receive this guidance?
189. Do you think you and PIRC were sufficiently equipped to investigate issues of race relating to deaths in police custody or deaths following police contact on 3 May 2015? Please confirm why this is your view.
190. With particular reference to the issue of race, is there anything you have stated above that, knowing what you know now, you would have done differently?

Record keeping

191. In addition to your notebook (PIRC-04198), what, if any, other notes did you take during the investigation? Were the notes within your notebook completed contemporaneously? For what purpose do you use your notebook within your role? What were PIRC's requirements for you to take contemporaneous notes of your actions and decision making during an investigation?

Miscellaneous

192. Knowing what you know now, is there anything you would have done differently within this investigation?

193. Knowing what you know now, is there anything you feel PIRC as an organisation should have done differently within this investigation?

194. Since PIRC's investigation was completed what, if anything, have you discussed with your colleagues at PIRC in relation to Mr Bayoh's death and the subsequent investigation? Do you think your recollection has been affected at all by these discussions?

195. 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?

196. You completed a PIRC statement covering your involvement in the investigation (PIRC-00358). Please confirm that the content of this statement is true and accurate. Was your recollection of events better when you completed that statement than it is now? Should there be any discrepancy between the content of your PIRC statement and this statement to the Inquiry, which account should be preferred?

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

198. 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."

ANNEX B

Public Inquiry into the Death of Sheku Bayoh

Terms of reference

The aim of this Inquiry is twofold: firstly, the Inquiry will establish the circumstances surrounding the death of Sheku Bayoh in police custody on 3 May 2015 and make recommendations to prevent deaths in similar circumstances, as would have been required under the Inquiries into Fatal Accidents and Sudden Deaths etc. (Scotland) Act 2016.

Secondly, the Inquiry will assess and establish aspects of the case that could not be captured, or fully captured through the FAI process, namely (a) the post incident management process and subsequent investigation and make any recommendations for the future in relation to these; and (b) the extent (if any) to which the events leading up to and following Mr Bayoh's death, in particular the actions of the officers involved, were affected by his actual or perceived race and to make recommendations to address any findings in that regard.

The remit of the Inquiry is accordingly:

- to establish the circumstances of the death of Sheku Bayoh, including the cause or causes of the death, any precautions which could reasonably have been taken and, had they been taken might realistically have resulted in the death being avoided, any defects in any operating models, procedures and training or other system of working which contributed to the death and any other factors which are relevant to the circumstances of the death;
- to make recommendations, if any, covering the taking of reasonable precautions, improvements to or introduction of any operating models, procedures and training, or other system of working, and the taking of any other steps which might realistically prevent other deaths in similar circumstances;
- to examine the post-incident management process and the investigation up to, but not including, the making by the Lord Advocate of the prosecutorial decision communicated to the family of Sheku Bayoh on 3 October 2018 (and the Victims' Right to Review process that was undertaken by the Crown Counsel in 2019), including: (i) the effectiveness of procedures for gathering and analysing information, (ii) the securing and preserving of evidence, (iii) the roles and responsibilities of those involved, (iv) liaison with the family of the deceased and (v) compliance with any relevant Convention rights; and make recommendations, if any, for the future in respect of these matters;
- to establish the extent (if any) to which the events leading up to and following Mr Bayoh's death, in particular the actions of the officers involved, were affected by his actual or perceived race and to make recommendations to address any findings in that regard; and
- to report to the Scottish Ministers on the above matters and to make recommendations, as soon as reasonably practicable.