



The Sheku Bayoh Public Inquiry

Witness Statement

DC Robert Finch

**Taken by [REDACTED] by MS Teams
on Friday 2 September 2022**

Witness details

1. My full name is Robert Finch. My date of birth is in 1981. My contact details are known to the Inquiry.
2. I'm a Detective Constable. I was a DC on 3 May 2015. I was in a detective post from November 2013. I passed the initial detective investigator course from October to November 2014.
3. I joined the police in June 2007. I was a Police Constable up to 2013. I started in Lothian and Borders. I was in response, then I moved to neighbourhood action group, then crime patrol which was inquiries surrounding drugs and housebreaking. From there I joined MIT in November 2013. Shortly before MIT we became Police Scotland. On joining MIT I was moved to a station in central Scotland.

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Previous statement

- 4. I have read my previous operational statement dated 11 May 2015 (PIRC-00143). I don't remember preparing the statement. I've read it back through and I know it's one I prepared myself. Everything in it is accurate. I have some memory of what's in the statement. I don't remember typing it. It's absolutely true.

- 5. As I would with any other major investigation, at the conclusion of my enquiry I would prepare an operational statement and submit that to the Holmes team. It was a Holmes-led enquiry from memory so there would be an action from the Holmes system to prepare and submit my operational statement.

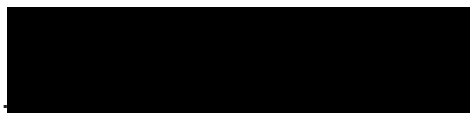
- 6. My first involvement in enquiry was 4 May 2015 so it would've been a clear memory at the time I typed it in the afternoon on 11 May 2015. It was a harrowing thing to be involved in, so it sticks in my mind, but for the finer details, not so much. Whatever I've said in that original statement is accurate at that time to the best of my knowledge. The original statement is the best and most accurate piece of information I can provide for the Inquiry.

Notebook and daybook

- 7. I have read my notebook entries (PS03199). Honestly, I don't have specific recollection of writing the notes. I can obviously tell you it's my writing and it would've been done at the time or as soon as practicably possible, bearing in mind a lot of the stuff I've done there has been with forensic precaution.

- 8. I do keep a daybook (PS18485) as well as a notebook. I have the relevant entries in my daybook. A detailed notebook is normal for me especially deployed as a Crime Scene Manager (CSM). There's very little difference between what's in my notebook and my daybook. The daybook can expand on what we've been told in a briefing, for example witnesses. One thing I do with

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the daybook is sketches of the locus as well. I have sketches about this enquiry.

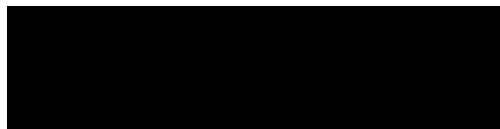
Media

9. I've seen snippets of the officers giving evidence to the Inquiry in the news but nothing in any great detail. I don't remember anything specific.
10. I've seen snippets of the case in the news. Predominantly Mr Bayoh's family calling for a public inquiry. I've not looked at the media in enough detail for it to affect my recollection of what happened.

Training

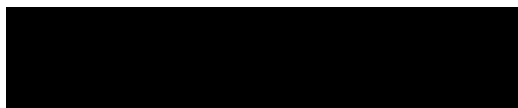
11. I have been asked what training I have completed that is relevant to my role as CSM. There's a 5 day CSM course at Scottish Police College at Tulliallan I attended. That was in February 2015. The detectives course I completed in 2013 was a significant time ago and I seem to remember there was maybe an hour input on crime scenes. I could be mistaken. It was touched upon at best.
12. I can't remember with any certainty if there was an assessment. There was a short exam on day 1 that required a pass. It was very much practical learning scenarios with various guest specialists. A mock crime scene would be set up each day. For example, day 1 would predominantly be a blood pattern type scene and a biologist would come out and do an input and we'd go back to the classroom and learn on the back of that. Likewise, the next day it would be something involving a gear-up to a forensic chemist coming out. I don't recall a further exam towards the end of the course.
13. The only qualification I had at police was a diploma in police leadership in anticipation of getting promoted at some point. I completed that between 2010 and 2012.

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14. Nobody was in charge of my training. But within the Major Investigation Team (MIT) there was a kind of portfolio of crime scene management. I only became aware of this towards the end of my time as I was involved in working on that portfolio. That was predominantly just trying to improve processes and procedures and cost-efficient or cost-saving exercises.
15. At May 2015 I had no specific supervisor in relation to Crime Scene Management. If I needed a bit of guidance there was more experienced crime scene colleagues I would turn to. I had a Detective Sergeant line manager. In MIT squads would be set up in different parts of Scotland, my direct line manager would chop and change depending on the enquiry team. So my line manager on the day was DS Rab More.
16. I wasn't in charge of anyone. At that time I was quite a new DC myself. I had overall supervision of the scene examiners but they're very much specialists in their role. I coordinated them so they didn't miss any forensic opportunities but direct management of them, no. The scene examiners were from the Scottish Police Authority (SPA).
17. I did read SOPs. Because I was relatively inexperienced, I relied quite heavily on a crime scene management SOP. I can't remember the title exactly. It was my second ever CSM deployment. I wanted to ensure I did everything correctly. In general it's only a 5 day course and you're expected to deploy immediately in the days after the course. In the days following the course I periodically glanced through the SOP. It was to reinforce my learning. I didn't read it during the time of Mr Bayoh's death. In the weeks prior to that, bearing in mind I only did the course in 2015 and I'm deployed there in May, there would've been days after passing the course where I glanced through that.
18. At the conclusion of the course we were given a little A5 ringbinder with quick reference sheets depending on what we were dealing with. Depending on what

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kind of incident you're dealing with, it would be what are your considerations, what specialists you can rely upon and that sort of thing. I still have the copy of it and can make it available to the Inquiry. It's called something like a Manual of Guidance. Beyond that I made notes at the college to reinforce my learning from the forensic specialists.

19. Generally an email would be sent to say if a SOP has been updated. A note on the website would include that guidance has been updated and what we should familiarise ourselves with. I would then go and read it. Workload allowing, I'd go and read that at the earliest opportunity.
20. Week 1 attending police college as a new constable probationer, the entire first week was dedicated to diversity. I can't remember anything specifically from it. I don't recall any other training on diversity and equalities.

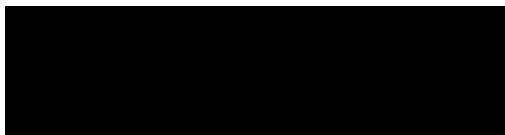
3 May 2015

21. I was on a rest day on 3 May 2015. I wasn't aware of the incident on 3 May 2015. I first became aware of it on 4 May 2015 during my shift.

Role on 4 May 2015

22. My shift started at 8am. At 10:00am there was a briefing regarding a male who died in police custody. The first time I found out about the incident was on that Monday morning.
23. My daybook (PS18485) states that I've been told I'd be getting deployed. I'd scribbled some ideas of what would be needed to kick off. I refer to page 3 of my daybook: *"0830... Instructed by DCI Hardie – will require to assist as CSM for death in Kirkcaldy yesterday."*

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24. I was asked to deploy as a CSM. That was my second ever CSM deployment. I passed the course in February 2015. I did one previous deployment regarding a motor vehicle. I had been involved in several major enquiries prior to being involved in the enquiry into Mr Bayoh's death.

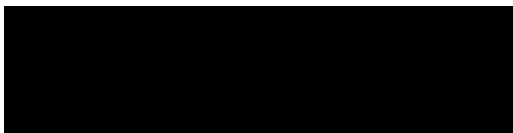
25. I think DSU Pat Campbell was in charge of the enquiry at that time. I was also briefed by DCI Keith Hardie. I don't recall any direct briefing from DSU Campbell. DI Stuart Wilson became involved and he was more involved in daily tasking and briefing. I don't know what Stuart's role was, maybe Deputy Senior Investigating Officer.

26. I refer to my daybook (PS18485) at page 6. I've written: "*1000. Briefing – Op Birnie – DSUP Campbell. PIRC – lead enquiry.*"

27. PIRC were notified at the outset and were involved in the investigation as well. I don't think it was expanded upon beyond that. I don't recall any representation from the PIRC at any of the briefings that I attended and I certainly had no direct contact with them. I don't know what the Crown Office's role was. I'm sure the senior officers were in consultation with the Procurator Fiscal (PF) but I don't know specifically what their role was. I had no direct contact with the PF beyond contacting an on-call PF later on that day regarding trying to obtain a drug search warrant.

28. I have been asked if I considered we were investigating if there was any potential criminality on the part of any police officers. I think that's a fair comment. I don't recall it expressly being said at any point, but it was pretty clear we were acting with absolute impartiality in it, and if that included gathering evidence of criminality committed by colleagues, then obviously we would do a professional and impartial evidence-gathering job on that. I don't recall it expressly being said, but, yeah, we were certainly aware that that was a possibility. I have been asked if there were any discussions about racism

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potentially being a factor in the investigation. I don't recall that expressly being said.

Knowledge of incident at Hayfield Road

29. I have been asked what I was told about the incident. I refer to my daybook (PS18485) at page 5:-


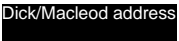
*"Function, back to Dick's watched boxing
Deceased became paranoid, end up at [Saeed home address], purple/white pills out of sock, flushed by Saeed – had a fight and stormed off – 0500 approx
Deceased went home 0700 – black male carrying knife cops attend – restrained, PAVA, CS – no effect, baton strike, possibly to head, H/C to rear, leg restraints – went still
CPR – ambulance – hospital"*

30. This came from the briefing by DCI Keith Hardie. Saeed is a significant witness. They were at a function and went back to Dick's and watched boxing. The deceased became paranoid. He took purple/white pills out of his sock. These were flushed by Saeed. The deceased stormed off at 5am. I think reference to 'black male carrying knife' was the description provided to police in the initial calls made by the public. The deceased was struck with a baton, possibly to his head. He was handcuffed to rear and leg restraints applied. I don't remember anything above and beyond what was said during the briefing.
31. There's a locus at Hayfield Road where he'd been restrained. I was told the deceased's address at [Collette Bell's address at Arran Crescent]. [redacted] is Martyn Dick's address, a friend of the deceased. Officers themselves had equipment that had been seized.
32. I refer to my daybook at page 6: "5. Said H/A – now returned – [Saeed home address]."

Signature of witness.....

[redacted]

33. This was an address occupied by a male, Saeed, which had been secured but had since been returned.


34. I was told that the priorities were the post mortem and to progress the loci that had been secured. I've then scribbled at page 7 that there was a separate CSM briefing by DCI Stuart Houston, who was the Crime Scene Coordinator that day, and it's at that point that I've been tasked to progress the loci at 
 and Arran Crescent, which was the deceased's home address.

35. I have been asked if I wrote anything about the people living in the loci. Nothing that I recall and nothing was written down. My knowledge from how Holmes-led major enquiries are led, I would've had the belief that part of the enquiry team would go and note statements from them. I can't comment further on the people living in the houses because I don't have any recollection of that.

36. Generally, hypothetically for this one and from experience from other incidents, we would ensure they had alternative accommodation and contact details, the moment we could return that locus back to them they would be contacted. They would most likely be contacted to provide a statement to the enquiry team at some point, but I can't give specifics on this one because my task that day was purely to process the addresses. I don't know if it was from the briefing but I did have an awareness at the time that Mr Bayoh lived with his partner and his infant child, that gave me a huge sense of empathy so I do recall that.

37. My role was to liaise with forensic and scenes of crime staff, coordinate them and complete a plan that comes from the forensic strategy meeting. I was a conduit between the forensic examination team and the SIO. I was assigned two loci eventually. I was asked to do an initial assessment at each of them. I was to task the Scenes of Crime Officer (SOCO) to take general photographs of the locus, to do an initial assessment and see if there was any evidence relevant to the enquiry. The SOCO's employer is the Scottish Police Authority (SPA).

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38. I wasn't given specific information about what may be relevant but from memory it was passed that Mr Bayoh had possession of a knife. It was passed that there were potential drugs, there was mention of these purple and white pills that had been flushed down the toilet. My understanding was we were looking for any loci with an obvious knife set with one missing, we were looking for any controlled drug or substance or legal high, and there was also mention of fights between witnesses and the deceased, so we were looking for any evidence of disturbance within those loci. Also looking for generic things like clothing, anything indicative of people's movements such as receipts or mobile phones. I don't remember any of that being specifically said, these are just things that I would generally be aware of at any crime scene or any locus that we have secured as part of an enquiry.
39. My recollection was that DS Rab More was the person I reported to that day. I was required to update him. Having checked my daybook, I don't have specific mention of it. I can't remember specifically but most likely phone calls throughout the day of what we were seeing and what we were finding. This was day 2 of the enquiry. Normally in MIT within the first week we would debrief in the evening and the whole enquiry team would meet and feed back information they'd gathered from that day. I don't have a note of that for this one, but there would be phone calls back into Rab, which would've been fed back into the SIO and the Holmes team.
40. I would potentially ask senior officers or ask the scenes of crime officers who were there with me. I can't recall DI Wilson's specific role but I know he had involvement. We were briefed by DCI Hardie. I don't recall if I spoke to DI Wilson directly.

Post incident management

41. I wasn't involved in dealing with the response officers at all.

Signature of witness.....



- 42. I have been asked if I was aware of a decision to implement a firearms SOP and adapt it to the current situation. I wasn't aware of this. First I've heard of that.
- 43. I have been asked if I was aware of the CCTV not working at the back of Kirkcaldy Police Station. I'm not aware of that.
- 44. I wasn't involved in the locus at Hayfield Road at all.
- 45. I wasn't involved in delivering the death message to the family.
- 46. I had no involvement in media engagement.

Forensic strategy

- 47. I wasn't involved in preparing the forensic strategy. An assumption is that the Crime Scene Coordinator DCI Houston would prepare it. Ordinarily as CSM we would assist in preparing an initial forensic strategy document.
- 48. I have been shown the Forensic Strategy Document (PS01298 [REDACTED]). I haven't seen this before. I don't think I've seen it specific to Mr Bayoh. If I was directly involved in a forensic strategy meeting then it's something I would compile. I don't remember why I didn't see it but I think it's because DCI Houston was CS coordinator and I had verbal instructions. It potentially would've helped if I had seen it, but I think it was quite clear what I was being asked to do. The only thing I have seen is the crime scene management report that I prepared at the conclusion of our enquiry just prior to handing over to PIRC (PS01302).
- 49. I have been asked if I was aware of anything relating to the repatriation of Sheku Bayoh's body. I wasn't aware of anything.

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[REDACTED]

50. I know the name Gary McEwan but never met him or had dealings with him. I don't know if he was made aware of what property was being searched and seized.

Martyn Dick and Kirsty Macleod's address

51. I physically attended Martyn Dick and Kirsty MacLeod's address at [REDACTED]. From my statement I attended at 2pm. I met with two scene examiners. "SES" in my statement stands for Scene Examination Supervisor, that was Gordon Young, and then an SE, Scene Examiner, Judith Harley. I met them in the street. We physically didn't enter the address until we'd all grouped up in the street. Martyn Dick's address had earlier been secured prior to me starting duty and that he was the friend of the deceased. The deceased had been in the address at some point in the early hours of 3 May. I remember there was at least one officer on locus protection, I was happy that it was sufficient to maintain the integrity of the address.

52. When we were outside I don't think I had any form of discussion with the SOCOs. I think they'd already been briefed separately. They knew their actions that day. There was no discussion as to what was required that I recall. I seem to recall they were at the SOCO van gathering their camera equipment and getting that ready whilst I was establishing if there was a scene entry log and getting that filled in.

53. There was no scene entry log at that scene. A scene entry log is a legal document that logs any activity in that address, any persons going in and out. I don't know why there wasn't a scene entry log. I don't think there was any reason provided to me as to why a scene entry log hadn't been started. I thought of adding retrospective entries. There is a specific section at the start of the scene entry log to record any persons that have entered that locus prior to the scene entry log being started, but I don't recall filling that in. That was simply information that wasn't available to me.

Signature of witness..... [REDACTED]

54. Normal practice is that we would complete that. My understanding – and this goes back to the initial training at police college as a probationer – is if a locus is being secured by police as a potential crime scene or otherwise, a scene entry log is started. There’s a yellow section at the beginning of that log which would include people that have been in there prior to the log. So if it’s a dynamic incident, for example, preservation of life, there would be a section where possibly we’ve not had time to fill that log in. There’d be a section to complete that and what the actions within the locus have been, and then the white pages are for, once the log’s up and running, it logs who’s in charge of protecting that locus and any persons that have entered the locus and what that reasoning is and what forensic precautions have been taken prior to them entering.
55. My understanding, a scene entry log, it’s a legal document, it should be completed and at the conclusion of an enquiry, it’ll be seized and lodged as a production.
56. I have been asked what was the legal basis for entering the locus. There’s a note in my daybook that permission was given by the occupier. I refer to my daybook (PS18485) at page 7: “*Warrant? – Permission given.*” At page 12 I’d scribbled some notes to say later to the on-call Fiscal: Dick/MacLeod home address
[REDACTED] *currently held by police as crime scene... - scene is held and has been examined on a voluntary basis in relation to the death of a male in Kirkcaldy yesterday.*”
57. The consent was not given to me directly. I’ve written that scene is held and being examined on a voluntary basis. I don’t have a direct memory of what I was told or who told me. I wouldn’t be told this by someone on locus protection, but I can only speculate on who would have told me this, either DS Robert More or DCI Stuart Houston.

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[REDACTED]

58. Beyond it being a PIRC-led enquiry, I didn't have any direct contact with anyone from PIRC. PIRC didn't oversee anything or attend the locus.

59. I wrote in my notebook (PS03199) at pages 2 and 3:-

"Attended [Redacted] Dick/MacLeod home address

Instructed officers to commence scene entry log at 1358

Entered – full forensic protection. Still photos. No sign of disturbance."

60. One of the things I was tasked to look for was a disturbance. I wouldn't have been sure what I was expecting to see and would have kept an open mind.

61. I don't know about mouth swabs being taken from Martyn Dick or Kirsty MacLeod. I had involvement with them only to provide a drugs caution.

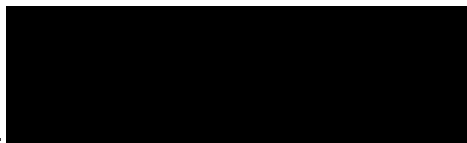
62. I was briefed to make an initial assessment. The best and detailed account is in my daybook. I've written at page 8: "*Jacket hanging on bannister.*" I think the process of my thinking at that time was for CCTV teams to look for clothing of the witnesses.

63. At page 8 I also wrote "*No signs of disturbance.*" and "*Herbal matter in jar in bed drawer.*" I drew sketches of the locus. I sketched downstairs and upstairs.

64. At page 11 I wrote: "*Drawer in kitchen – upper to right of cooker head – contains knives, mostly black handled of various styles/size. None obviously missing.*"

65. All of that was my initial assessment. I don't recall why I didn't seize any of the knives at [Redacted] Dick/MacLeod home address at this time but there is nothing from my notebook, daybook or statement to indicate they were visually similar to the knife recovered from Hayfield Road.

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66. On page 11 I wrote:-

*“1500-1505 Re-entered with Judith Harvey to assess herbal matter in bed
drawer, main bedroom
2x grinders – trace amounts
...
Plastic jar – trace amounts”*

67. We re-entered to assess the herbal matter. The drawer in the nearest bedroom was open and the jar was obvious. 2 grinders.

68. From memory I think I rang DS More or DI Wilson and was advised to phone the on-call Fiscal to seek a drugs search warrant. I can't recall why we needed the search warrant in addition to the consent.

69. I've written in my daybook (PS18485) at page 13:

*“Relating to investigation?
Putting pen through it
No wanting to bother Sheriff
1700 Spoke to A/N – PF
Operational matter
From prosecution point of view – nothing will be done”*

70. I rang the PF and I've informed him of the circumstances. He told us we weren't being granted permission to approach the Sheriff for a warrant and it was an operational matter for the police.

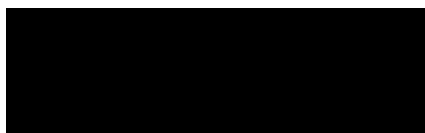
71. I have been referred to my notebook at pages 2 and 3: *“Monday 4 May 2015...*

*1700. Spoke to PF DEV KAPADIA
Not authorised to approach JP/Sheriff for warrant. Prosecution would do nothing. Operational matter
1710. Instruction by DI Wilson to recover substance and caution occupiers”*

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72. This means police were not authorised to apply to the Sherriff. We would always apply to the PF for permission to approach a Sheriff to obtain a warrant, that remains process today. If we were to crave a warrant, the initial circumstances would be provided to PF and they would initially draft a warrant and give us contact details to approach a Sheriff.
73. It would depend on the warrant who applies for it. For a drug warrant the police witness themselves have to petition the Sheriff and provide them with the circumstances leading to them asking for the warrant. I think warrant such as general evidence, property search warrants, that can be done by the Fiscal on behalf of the police based on the information that the police provide them with. As a DC I would never contact a Sheriff direct. The PF is a conduit between myself and a Sheriff, effectively. They'll decide whether it merits approaching a Sheriff to crave a warrant from him or her.
74. I have been asked what "Prosecution would do nothing" means. I don't know if I can answer that on behalf of the PF. My understanding is that, even if we were to seize that and report the circumstances to the Fiscal that any kind of prosecution would not be progressed. Essentially it would be what we often refer to as being "red penned", there'd be no further action taken. I can't answer why it would be red penned. My assumption would be based on the small amount, as per my statement, I was estimating that it was quite a small quantity. 1 gram would be classed as personal use.
75. An operational matter means it's a decision for police to make. Given the nature of the enquiry and it being SIO-led, it wouldn't be my decision. In this case I needed to seek instruction from a senior investigating officer. I suppose on the most basic level I'm bound under legislation to protect life and property and prevent and detect crime. So on the most basic level, I suppose you could argue I have a duty to seize that. But in this particular instance, that's not my decision to make.

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- 76. The PF wouldn't give any further instruction. They would only say that it was a decision for the police to make and they wouldn't give any further instructions to what that policing decision should look like.

- 77. That's an illegal substance so I personally wouldn't walk away from it without clear instruction from someone superior to me. In my view, I'm duty bound to seize that. But in this particular instance, I wouldn't do anything without instruction from a senior officer.

- 78. I have been referred to my statement at page 2: *"About 1700 hours, same date, I spoke with the on call Procurator Fiscal and informed him of the Herbal Matter located within Dick/MacLeod home address. At this time I was informed I would not be granted permission to approach a Sheriff or JP in order to crave a warrant and was advised it was an operational matter for Police to decide on how to progress."*

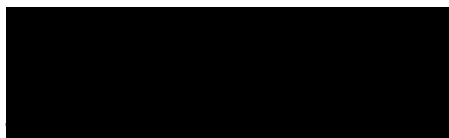
- 79. I have been asked why I didn't include "Prosecution would do nothing" in my statement. No specific reason. I don't think that should be in the statement, it's the Fiscal's decision so it's not for me to evidence that in my statement.

- 80. I have been referred to my statement at page 2: *"I thereafter spoke with DI WILSON and was instructed to recover the Herbal Matter and caution the occupiers that they would be reported for offences under the Misuse of Drugs Act 1971 pending the result of any analysis."*

- 81. I don't have any recollection beyond what's in my statement, I contacted DI Wilson. I don't remember driving so it was a phone call or radio. I told him we contacted the PF, that's the information given, how do we proceed.

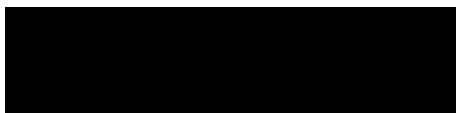
- 82. The instruction was to seize the items and to caution both occupiers with a statutory drugs warning.

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83. I have been referred to my notebook at pages 4 and 5: *“1842 A/N’s read drug caution verbatim:- “I have reason to believe that the substances found within your home address is a controlled drug under MDA 1971. Should analysis of the substances prove positive you will be reported for offences under the act. I must caution you that you are not obliged to say anything in reply but anything you do say will be noted and may be used in evidence. Do you understand?” Both U/S, N/R.”*
84. A/N’s means “above nominals”. Kirsty MacLeod and Martyn Dick. U/S is understand. N/R is no reply.
85. We would wait for proof of the substance is a controlled drug before charging them. I wasn’t given any rationale from DI Wilson why I should do this.
86. I’m not aware of what happened afterwards with Martyn Dick and Kirsty Macleod. I don’t know if a Standard Prosecution Report was submitted. Later in my statement I was given an explicit instruction by DS More that I take no further part in the enquiry. I couldn’t do the field test so couldn’t take this forward. If I hadn’t been taken off this enquiry I would’ve had the drugs tests and would’ve submitted the Standard Prosecution Report to the Fiscal.
87. I met with DC McGregor. He corroborated me seizing those items after they had been photographed by Judith Harley. Then we traced the two occupiers, Martyn Dick and Kirsty MacLeod. In DC McGregor’s presence, I administered the drugs caution. I recall it was at a back of the address. We met them in the car park. After that, the keys were handed back to them and the scene entry log for the address was seized by myself.
88. I can’t remember if it was myself or one of my colleagues that contacted them to say we can hand the keys back. I think they volunteered to come to the address at that point so the keys could be handed over. I think, at that point, it

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was explained that, during the course of enquiries, we'd discovered these items.

89. I can't recall how DC McGregor came to be at the scene. I can't recall whether I asked him to come and corroborate or a supervising officer had directed him to come and meet me. He certainly wasn't there throughout the earlier assessment, it wasn't until later on that he met us.

Sheku Bayoh's address

90. I attended Collette Bell's address at Arran Crescent about 7 in the evening. I have been asked if I know the legal basis to search this property. No, and this really jumps out to me when I reviewed my statement. I can only answer that with, at the time, it was SIO-led. I'd have had the firm belief that we were acting lawfully and within the powers of either permission from the occupier or SIO policy in conjunction with the PF and the PIRC, but I don't have any specific note in my notebook or my daybook nor memory as to what that was, whether it was a warrant, permission from the occupier, or otherwise.

91. Although I don't have any recollection of that, I'm certain we'd have acted on a clear instruction at that time, whether it was for warrant permission or a SIO policy. I wouldn't have done that unless I thought I was acting legally and with absolute fairness. This was an SIO and HOLMES led enquiry. Every action I take during such an enquiry is based on clear instruction, either verbal instruction or an action raised by HOLMES. At no point do I act autonomously on such an enquiry. There should be a record of this, either through an action being raised on HOLMES or a policy log raised by the SIO and should be available for audit and scrutiny

92. When I arrived I recall Judith Harley was already there. She mentioned at 14 Arran Crescent there was a watch with a plastic sheet over it. I made a phone call and clarified that it was potentially linked to the investigation. That was

Signature of witness.....

[Redacted Signature]

photographed and seized by scene examiners. I don't know the rationale why it was relevant.

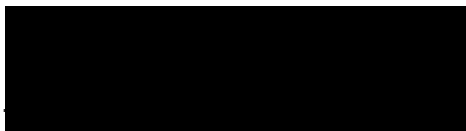
93. From my statement, it was 7:20pm by the time we've seized the watch we've entered Arran Crescent. I've taken full forensic precautions. I refer to my daybook (PS18485) at page 8: "*Entered – full forensic precautions – gloves, overshoes, suit, mask.*" I can't comment on what precautions the other scene examiners took.
94. We were in the kitchen. We noticed two fridge magnets on the floors. Strips of photographs held up by magnets. Held up on the floor by the fridge. There were identical fridge magnets on the footpath. The pen connecting the watch strap was broken. The watch strap was only connected on one side. The fridge magnets and watches were photographed and recovered by two scene examiners.
95. I don't see that I've put it in my statement, but looking back now, that is indicative of a potential disturbance, potentially fridge magnets were pulled off a fridge and a watch strap with one side potentially pulled off. There was a small flatscreen television on the floor, possibly indicative of being knocked over. I'm obviously alive to the fact that there could be another explanation of that but, yes, it's a potential sign of disturbance.
96. I don't know why I didn't put in any mention of a potential disturbance in my statement. If I wrote a statement today of similar circumstances I would include that. It might be a factor of experience. This would just be my interpretation, and opinion. I can't answer why I've not included that. I can only think that it's photographed, it's for other people to make that assessment and judgment. It's not really my job to provide an opinion on that. It's my job to gather the facts.
97. In my daybook I've recorded my initial assessment (PS18485 at pages 14 to 18). I do this with the scene examiners. They recover forensic significance,

Signature of witness.....

such as watch and the magnets. I've got a sketch of the property and some notes. Nothing of significance. Just descriptive. I've sketched the floor of the kitchen. No signs of disturbance in the living room. Including "N/D" in photographs, meaning now deceased. Image of Mr Bayoh. Clothing on floor. Medication on top of fridge/freezer.

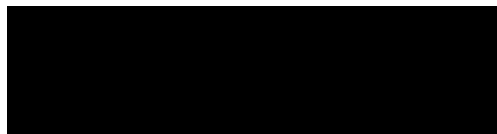
98. Upstairs. Didn't do a sketch of the layout upstairs. Shelving under window. Gold watch on the floor. Outside rear, 4x fridge magnets. 4 metres leading from back door. Silver wristwatch. Pin broken on strap.
99. The daybook then goes into the search with DC Gordon Stanford. This is to corroborate me doing a further search.
100. I can see these details in my notebook. I've recorded the search predominantly in my notebook and then later put it into my daybook so I've got a further record of that. Normal practice for me is to record this into my notebook first as I'm doing it. I still do that today. I don't use my daybook nearly as much current day. Back in this day I was very detailed in what I put in my daybook.
101. From memory, most of the items were identified in the initial assessment. We have done a more detailed search with DC Stanford. I can't recall if we knew at that stage what we were going to do. My memory is most of them were identified in the initial assessment and photographed.
102. On page 17 of my daybook (PS18485) I wrote: "*Medication on top of fridge/freezer*". I can't remember my thought process at the time in referring to this as medication. It wasn't a controlled drug that I was familiar with at that time.
103. Also on page 17 I wrote: "*Mobile phone on top of unit beneath wall mounted TV. Black/silver mobile – Samsung within case, SHEKU BAYOH – various cards within phone case in N/A name.*"

Signature of witness.....



104. The cards in the phone case had Sheku Bayoh's name on them.
105. I don't know why I didn't seize the phone. I'm sure there would've been a reason why it wasn't seized. I would've wanted to be extremely thorough as it's my second deployment but I don't have anything noted as to why it wasn't seized. I believe I was instructed not to seize the phone as the PIRC would be taking control of the address and they would recover the phone for examination.
106. I have been asked if the search took around 15 minutes because following the initial assessment we knew what we were going back in to seize. I think it's a fair assumption that the 15 minute search is short. We did a thorough assessment and we knew what we were going back in for. I don't have a specific memory but I think that's a fair assessment.
107. I can't remember what the knife from the incident looks like now. I think I must've seen the knife from the incident. A photograph must've been shown at the briefing because the knives at Collette Bell's address at Arran Crescent were visually similar to the knife at Hayfield Road. I've not put that in my notebook but I wrote my statement days after the fact so clear in my memory.
108. I think we seized the knives after the fact, I seem to remember speaking to a productions officer and seeing the knife in the productions. I think that might've been the comparison after the fact. This is a vague recollection. I don't know if it was a photograph, I can't be certain.
109. I have been asked if Collette Bell was asked to confirm if the knife found at Hayfield Road matched the set that was seized from the kitchen drawers. I've had no direct contact with her. It's a Holmes-lead enquiry, I'd have no doubt that the Holmes team would create an action, but I've no idea if that happened and has been done.

Signature of witness.....



110. I can't recall if DC Stanford and I had full forensic clothing. We'd take the utmost precaution. We'd know there's no blood examination. This could justify bringing the level down a bit. I can assume I waited for Gordon Stanford's arrival. I think I'd have tasked him to wear some clothing, at least a mask, but I can't recall.

111. The tablets and powders were things identified in the initial assessment. I don't have a note or any memory of it but I can only assume I've fed this back to the enquiry team and I've been instructed to seize that.

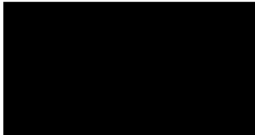
112. The fridge magnets and the watch were recovered by the scene examiners.

113. I don't know why the property was held for so long. Locus protection was later stood down by investigators from the PIRC. I'm not aware of any reason it was held other than to allow the searches to be completed – initial forensic assessment and then search by police officers. Then control was handed to the PIRC.

114. I know the next day I was told to do a visual assessment of a car but at that time I was definitely told it's going to the PIRC taking over and we were to have no further involvement. I was told to do this by DS More.

Forensic precaution

115. I have been referred to my statement at page 2: "*SES YOUNG, SE HARLEY and I thereafter entered in order to make an initial assessment. I took full forensic precautions at this time by means of wearing a scene suit, gloves, mask and over shoes.*"

Signature of witness..... 

116. I have been shown the Scene Entry Log for Dick/MacLeod home address ([REDACTED] PS18505). The log commenced at 13:58 on 4 May 2015.

117. I have been shown the Scene Entry Log for 3:05pm at page 3 and asked why Judith Harley was not wearing a protective suit when she entered. It's her responsibility. Judith Harley is much more experienced in forensics than I am. It would be a decision for her. I certainly supervise their processes. Mainly so their actions don't compromise the scene. I've taken full forensic precaution because I'm new to the role so I've taken precaution. I can only assume that Judith has made the assessment that she doesn't require it.

118. I have been referred to the Scene Entry Log for 6:18pm at page 4 and asked why I didn't wear a protective suit or overshoes at that time.

119. If I've gone in with only mask and gloves it's because there's nothing in the property that would be affected. Mask and gloves as a precaution because we're recovering what might be controlled drugs.

120. It's normal for locus protection not to wear protective clothing. They don't enter the locus. Their job is to protect the integrity of the locus. They're always external to the locus. There was no requirement for them to take any kind of forensic precaution.

121. I think after that I went back to the station and lodged the productions that we seized. I terminated duty at 9:30pm.

6 May 2015

122. On 6 May 2015 I was briefed by DCI Hardie and DI Wilson. I wrote notes of a briefing from the briefing in my daybook (PS18485) at pages 23:

*"Briefing DCI Hardie / DI Wilson
Operation Birnie*

Signature of witness..... [REDACTED]

PM – bruising legs – restraints

Left hand bruised

Blunt force to head

Haemorrhaging to eyes – consistent with restrain / positional asphyxia

Bruising to wrist

Brain – cloudy – possible infection

Causes victim to be delusional

Cause of death – unascertained pending tox and neurology

Car – white car – damage consistent with stabbing?

123. I was instructed to attend a secure recovery yard in [REDACTED].
124. In my daybook I wrote at page 24: “*Seat Toledo... - witness talks of a white car being stabbed – any marks consistent with that... - search interior – weapons/knives – drugs – delusional*”.
125. We went and made an assessment of that vehicle, externally. I made detailed notes in my daybook about what we were seeing there. The copy of the notebook provided. I don't know what's further. In my daybook I've got detailed information and a sketch of what we're seeing.
126. I couldn't say what it was classed as under forensic strategy. It was a production and I tasked with going to see that given my CSM qualification. I oversaw the SOCOs, working in conjunction with assessing the vehicle and any damage.
127. My statement mirrors what's in my daybook, short of the sketches. I don't know of any recovery from the vehicle. I've made notes of various areas of damage to that vehicle and had it photographed to scale. Two areas of damage. Small indentation. Small amount of paint was missing. Rough measurement from the

Signature of witness..... [REDACTED]

scene examiner. Rear measurement at the side door. Mark on rear side door. Uneven linear mark, squiggly mark. Approx 15cm in length. Paint missing. Right to left and got lighter in depth, became a scratch by the end. Noted further damage to front offside headlamp. Covered in plastic, appeared to be historical. Further marks in front offside bumper. That was all photographed.

128. Discussion between DI Wilson and SOCO, about chemist coming out to examine, take samples. That was taken at a later date and I was drafted away.

129. I don't know the timescales of the handover to PIRC. DI Wilson was still involved at that stage. I had no contact with PIRC. I had no discussions personally.

130. I was aware DC Roxburgh later arranged a chemist to attend and take samples.

131. I don't know what Zahid Saeed's involvement was beyond flushing purple/white pills down toilet and had a fight with deceased and he had stormed off.

132. I don't know about Zahid Saeed dealing with police during the day or in the evening at Kirkcaldy police Station.

133. I have been referred to my statement (PIRC-00143) at page 5: *"About 1140 hours, Tuesday 5 May 2015, I was instructed by DS MORE to make no further enquiries into the incident. I was instructed to hand all aforementioned labelled productions to DC GILZEAN, productions officer. The traces contained within the two grinders and the tub of Herbal Matter recovered from within [REDACTED] Dick/MacLeod home address had not been subjected to a presumptive drugs field test at this time."*

134. I wrote in my notebook at page 6: *"0900 Briefing – OP Birnie
DCI Hardie*

Signature of witness.....

[REDACTED]

1140 Instructed by DS More to hand over all production to DC Gilzean despite field test not having been completed.”

135. In my daybook (PS18485) at page 24 I wrote: “*1140. Instructed by DS More to handover all productions to DS Gilzean, despite field test not being completed and scene logs not complete*”.

136. I don't know why I was taken off the investigation. I've got no record of why I was taken off. I was on another enquiry on the same day as my final involvement in this enquiry on 6 May.

137. At the point I wasn't going to be involved is because it was going to PIRC and we'd have no further involvement in this. PIRC were taking this enquiry on. I wasn't involved in a handover to PIRC. All my productions went to DC Peter Gilzean. This includes the herbal matter and everything else in the statement. That was on the 5 May 2015.

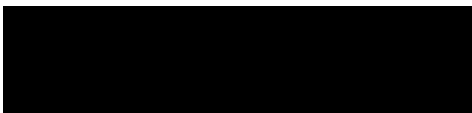
138. I don't know why I was asked to go out to the Toledo car after the instruction to hand over all productions.

139. I think the references to transcripts in a page of my notebook are about another enquiry, not this one.

Race

140. Since probation, I've had no diversity and equalities training that I can recall and nothing that's logged on my personal record on the computer system we have access to. I don't remember any emails or offers of training or guidance about race. I don't recall anything about unconscious bias. I'd have trouble forming it into words but I understand what it means. My understanding is any pre-determined beliefs that I hold that may subconsciously affect how I operate and how I deal with people.

Signature of witness.....



- 141. In my opinion I don't believe I hold any biased thoughts, I try every day to deal with every person with professionalism and impartiality. I'm conscious of unconscious bias being a factor but I don't let it affect how I operate.

- 142. I have been asked if, looking back now, did Sheku Bayoh's race play any part in my involvement in the enquiry. For me personally no, absolutely not, I acted with professionalism and impartiality. I have a huge amount of empathy for Sheku Bayoh's family given the family dynamic. It was harrowing when I went to Mr Bayoh's address and seeing the setup and being able to relate to that and seeing the child who has lost the father. Honestly, I personally acted with fairness and race didn't play a part.

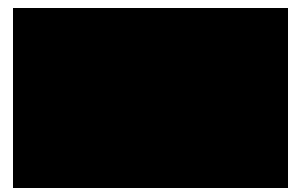
- 143. The way the public interpreted the events didn't factor into my conscience. The way it was portrayed in the media didn't cross my mind at the time. Nothing was done for me personally, nothing specific said in any briefings and instructions about the media and public interest.

- 144. I've never seen any examples of discrimination by police in Kirkcaldy in relation to race. I'm not aware of any other police officers having racist views. I've not heard any racist jokes or comments from any police officers. To elaborate, that's something I'd actively challenge and would be disgusted by it. I can honestly say I've never encountered that.

- 145. 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.

November 15, 2022 | 1:45 PM GMT

Date.....Signature of witness.....



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