

IN THE MATTER OF THE SHEKU BAYOH INQUIRY
OPENING STATEMENT
ON BEHALF OF THE SCOTTISH POLICE FEDERATION

Introduction

1. This is the opening statement of the Scottish Police Federation (“SPF”).
2. The statement is designed to address the matters to be dealt with during Hearing 1 of the Inquiry. To place those matters into context, this statement will necessarily touch upon matters relevant to the whole scope of the Inquiry.
3. The SPF welcomes the Inquiry and fully supports it in its efforts to fulfil the Terms of Reference. The SPF will continue to assist the Inquiry in every way it can.
4. The Terms of Reference confirm that the Inquiry’s purpose will seek to establish the circumstances surrounding the death of Mr Bayoh in police custody on 3 May 2015 and to 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. In general terms, the Inquiry will examine: (1) the immediate circumstances leading to the death of Mr Bayoh; (2) how Police Scotland dealt with the aftermath; (3) the subsequent investigation into the death; and (4) whether the actions of the officers involved were affected by Mr Bayoh’s actual or perceived race.
5. The death of any individual is tragic. This particularly so when the death occurred shortly after an interaction with Police officers. The SPF acknowledges that any such death will raise real and justifiable public concern. The family and the public are entitled to know what happened to Mr. Bayoh on 2 and 3 May 2015 and what ultimately led to his untimely death. It is hoped that the Inquiry will provide the answers to the questions that the family and the public may have. In addition to providing answers to the family and members of the public, it provides an opportunity for the Inquiry to dispel any misunderstandings or conjecture as to what happened and what ultimately led to the untimely death of Mr. Bayoh. As noted by the Terms of Reference, together with the submissions made by Counsel to the Inquiry, the issues of race will be considered at every stage of this Inquiry. Although confident that Mr. Bayoh’s race or perceived race played no part in the actions of the officers involved, it is acknowledged that this is an important question that must be answered by the Inquiry. This Inquiry also provides an opportunity for any deficiencies in training, resources provided to police officers, and the

immediate investigation undertaken to be highlighted to enable them to properly be addressed going forward.

The SPF

6. The SPF is a body established under s.59 of the Police Act 1996. Its statutory purpose is to represent members of the police force in Scotland in all matters affecting their welfare and efficiency. They do not represent members of the police force in questions of promotion affecting individuals or, subject to s. 59(2) of the 1996 Act, questions of discipline. The SPF represent the interests of its members in such matters as negotiating pay, conditions, pensions, health and safety, uniform and protective equipment. They have a direct role in representing their members interests in the policies adopted by Police Scotland, their members' training, and the resources available to them. They provide representations on behalf of its members to the government, Police Scotland, and other related agencies to ensure that the best interests of its members are properly represented, both in relation to how they work and how they are compensated. They are wholly separate to that of Police Scotland. They are not a training body nor are they an investigative body. In essence, they are akin to a trade union for the members of the police force in Scotland. They are the representative body of not only the majority of police officers in Scotland, but also the officers that were involved in the restraint of Mr. Bayoh on 3 May 2015.

Hearing 1

7. Hearing 1 is set to address the immediate circumstances leading to the death of Mr. Bayoh and the immediate aftermath. In particular, the Inquiry will consider:
 - a. What was done (or not done); and why?
 - b. What standards applied as at 3 May 2015?
 - c. Whether and to what extent there was any departure from the standards;
 - d. What difference did any departure(s) from the standards make to the outcome?
 - e. Would it have made a difference if Sheku Bayoh had been white?
8. The SPF does not intend to predict or assert what the evidence will show during Hearing 1. The SPF is content to allow the evidence to be led and to speak for itself. Any comment on the evidence ought to be addressed by way of closing submissions once the Inquiry has heard all the relevant evidence for that particular hearing. To predict or speculate on the nature of that evidence would be premature and, in our view, inappropriate.

9. As a representative body, SPF did not play a role in the restraint of Mr. Bayoh. They nevertheless have an interest in ensuring that any lessons that can be learned from the matters to be addressed at Hearing 1, for example in relation to the resources provided to police officers or any changes to training, are learned. The SPF are aware that changes have since been made to the training provided to police officers by Police Scotland, particularly surrounding how to recognise and approach individuals suffering from an Acute Behavioural Disturbance. The SPF are keen to explore what further changes, if any, can be made. The SPF are keen to explore the resourcing that was made available to the officers who attended the scene and, in particular, whether the provision of additional officer safety equipment, such as tasers, would have avoided the fatal outcome.
10. A representative of the SPF was, however, involved in the immediate aftermath when they provided welfare advice to the officers involved upon request. As a result of providing welfare advice to the officers, and by making arrangements for the officers to have the benefit of legal advice, the SPF has been vilified in the media. The SPF defended, and will continue to defend, their members interests to fulfil its statutory obligation to represent its members in all matters concerning their welfare. This includes the provision of welfare advice and ensuring that their members' fundamental legal rights are respected.
11. The Inquiry will need to scrutinise with great care the extent to which individual police officers are to be entitled to the same legal protections as members of the public and consider, if they are not, how such a position can be reconciled with the officers' rights under Article 6 of the European Convention of Human Rights.

Conclusion

12. It is hoped that the evidence that the Inquiry hears during Hearing 1 will address the questions that both the family of Mr. Bayoh and members of the public may have as to what occurred on 2 and 3 May 2015. It should be stressed that the death of Mr. Bayoh has not only impacted upon his family and members of the public, but also the lives of the officers involved. They have been vilified and subject of considerable criticism before all relevant facts were known. Their conduct has been examined twice by the Crown and no criminal prosecutions have been brought. Notwithstanding this, they have continued to be subject to prolonged campaigns to have them criminally prosecuted. Two of the officers involved have been forced to retire from Police Scotland on grounds of ill-health.

13. Promoting a narrative of ‘us against them’ and making false equivalencies with the deaths of other black men at the hands of the authorities in other countries is unhelpful. The individual officers involved in the death of Mr. Bayoh did not join Police Scotland with a desire to be involved in the death of an individual. They joined Police Scotland to serve their local community and to protect members of the public. In doing so, they voluntarily put themselves in harm’s way. Presenting this Inquiry as a fight for justice against a malign faceless police force does not do the circumstances justice. It ignores the individual circumstances of Mr. Bayoh, and it ignores the bravery of the individuals who responded to a call of a man carrying a knife, acting erratically, and attacking cars in the street. It remains important, however, for the Inquiry to explore the issues within the Terms of Reference to ensure accountability and transparency in policing throughout Scotland. For these reasons, the SPF welcomes the Inquiry and fully supports it in its efforts to fulfil the Terms of Reference.