

## **Post Incident Management (Police Scotland) Hearing – List of Issues**

**31 January 2023**

### **Events involving the Family Members & Friends of Sheku Bayoh:**

#### **(1) Contact & Communications with Family & Friends of Sheku Bayoh**

- The circumstances surrounding the failure to inform Connie Barcik, including information about the death of Sheku Bayoh.
- Contact with Collette Bell and the extent to which the information about the death of Sheku Bayoh was provided to her; and whether this was complete and accurate.
- The delivery of the Death Message at the home of Mr Adeyemi & Mrs Kadijartu Johnson; the timing and the nature of the message delivered; the extent to which the information provided to them was complete and accurate.
- Circumstances surrounding the appointment and involvement of Family Liaison officers.
- The extent to which religious and cultural considerations were taken into account in communications with family members and friends of Sheku Bayoh; the extent to which interpreters were considered and used, where appropriate.

#### **(2) Search of Properties**

- The circumstances surrounding the searches carried out in properties at Arran Crescent, Kirkcaldy; Martyn Dick and Kirsty Macleod's home address; and the Saeed home address; the authority under which the searches were carried out; the timing of such searches; the reasons for these searches; the extent to which the searches were carried out; any items seized and recovered during such searches and why; the authority under which any such items were seized; the extent to which (if any) removal of the residents was required; the duration of the searches; and the circumstances surrounding the release/return of the property to the resident(s).
- In particular, in relation to the search at Martyn Dick and Kirsty Macleod's home address, the circumstances surrounding the decision to caution and charge the residents; and take forensic samples.
- The extent, if any, to which any religious and cultural sensitivities were taken into account in carrying out those searches.

- The extent, if any, to which the health and wellbeing of the residents of the various properties searched were taken into account.

### **(3) Identification & Post-mortem**

- What arrangements were put in place to identify the body of the deceased, and why; to what extent were any religious and cultural sensitivities taken into account in doing so.
- What was the normal procedure for handling the body of a deceased person prior to and during the post-mortem examination? Within what period of time, following a death, does a post-mortem examination ordinarily take place? Was there any requirement for the post-mortem examination to be carried out the day following Mr Bayoh's death? What procedures were in place in the case of the death of a black Muslim male, to take account of religious and cultural sensitivities? To what extent was consideration given to: (i) seeking guidance from or involving a local Imam or other specialist adviser; (ii) the gender of officers involved with the body of the deceased; (iii) involving the family in decisions being taken regarding the post-mortem examination (including but not limited to the timing of the examination and the collection of a hair sample during the examination).
- What steps were taken to prepare the family members for the viewing of the deceased after the post-mortem examination; what advice or information was provided to the family; what was best practice and was it followed?

### **(4) Media Engagement**

- For the purposes of securing all the oral evidence from the family at this hearing, views from witnesses in relation to the instruction of experts by PIRC/COPFS, including in particular Stephen Karch, ME; and subsequent events involving his contact with the media will be explored.
- For the purposes of securing all the oral evidence from the family at this hearing, views from witnesses in relation to comment in the media on the circumstances leading up to Mr Bayoh's death by or on behalf of the Scottish Police Federation; and whether such comments were influenced by Mr Bayoh's race or perceived race.
- The decision not to prosecute individual officers, taken by the Lord Advocate, was made public on 23 September 2018, prior to a meeting between family members of Sheku Bayoh and the Lord Advocate on 26 September 2018. The views of the family in relation to the timing of this public disclosure will be explored.
- The impact of tweets on Twitter in relation to the death of Sheku Bayoh, in particular by Calum Steele, General Secretary of the Scottish Police Federation.

## **Post Incident Management of Events by Senior Officers**

### **(1) Role of Senior Officers**

- What was the understanding of officers from Police Scotland as to their own remit and responsibilities; and those of other officers on 3 May 2015.

- What role did Senior officers have on 3 May 2015; when were these appointments made; and who made these appointments. In particular, who was appointed Senior Investigating Officer; Crime Scene Manager; Post Incident Manager; Deputy Post Incident Manager; Scene Co-ordinator; and the role and responsibilities of each position.
- What training had officers received to carry out these roles and appointments; what experience did they have of these roles and responsibilities on 3 May 2015.
- What steps were taken to adopt appropriate procedures on 3 May 2015; what Standard Operating Procedures were used and implemented by officers in May 2015 and why; to what extent were they effective and appropriate.
- How and why was the Armed Policing Standard Operating Procedure adapted to the circumstances; what impact did this adaptation have on management; how was this communicated amongst officers in Police Scotland; to what extent was this effective and appropriate.
- What explanations were given to Police Scotland by PIRC as to the nature and extent of their involvement; what was the understanding of Police Scotland as to the remit and responsibilities of PIRC.

**(2) Management of Attending Officers on Return to Kirkcaldy Police Office**

- What consideration, if any, was given to the possibility of officers present at the incident on Hayfield Road discussing what had occurred, before those officers had provided their own account of events – by whom and when?
- What arrangements, if any, were made to avoid individual officers present at the incident on Hayfield Road, from discussing the events; what arrangements were made to provide the officers with a sterile environment on their return.
- What information and/or advice was provided to individual officers about the procedures adopted for management of the situation; and completion of paperwork including the Use of Force Forms; Use of Spray Forms; Notebooks; Operational Statements; providing Witness Statements.
- What facilities were made available to the officers for refreshments and comfort within the canteen during their time there.
- When was the incident declared to be a Major Incident and by whom? Why? What difference did that make? When was that communicated to the police officers?
- When were officers advised of the involvement of PIRC and the difference this would make?
- What arrangements were made in relation to the return of PC Short to the canteen?
- What arrangements were made in relation to the officers having access to their mobile phones?
- When were full incident scene protocols implemented at Hayfield Road, Kirkcaldy; and whether this could have been done sooner.
- Who instructed the examination of the attending officers by Dr Gillian Norrie; when was this instruction given and why. What was the purpose of this examination by the FME and what was the reasoning behind this? What was the status of the officers at that time? Were they suspects or witnesses?

- Who instructed recovery of the equipment and clothing of the officers; and when.
- What was done to protect the forensic integrity of these items prior to, during and after recovery and seizure

**(3) Completion of Paperwork & Collation of Data**

- On 3 May 2015, what was the understanding of Senior Officers at Kirkcaldy Police Station as to the status (witnesses or suspects) of the officers who played a part in the restraint of Mr Bayoh?
- On 3 May 2015, to what extent were Senior Officers at Kirkcaldy Police Office responsible for the management and organisation of or the completion of paperwork post-incident; and ensuring or requiring individual police officers to complete paperwork after an incident involving the use of force, including the Use of Spray forms after discharge of CS or PAVA sprays; Use of Force forms after use of force at an incident; completion of notebooks after attending an incident; and provision of operational statements or witness statements.
- To what extent were any of these responsibilities influenced by the status of the officers?
- In the event officers who attended the scene at Hayfield Road on 3 May 2015 did not complete Use of Force forms; Use of Spray forms; notebooks and did not provide Operational Statements, what responsibilities or obligations, if any, did any of the Senior Officers have for completing any of this paperwork.
- What training or guidance was provided to officers in Kirkcaldy Police Office regarding the completion of such paperwork; and what information in particular was provided by Senior Officers to the individual attending officers. on 3 May 2015 regarding the completion of such paperwork.
- To what extent were senior officers aware of obligations on Police Scotland, and any particular responsibilities owed by them in their roles, to gather; collate; monitor; and assess data, regarding equality and diversity issues, including race.
- To what extent did any of the Senior Officers have responsibility for or involvement with prioritising the collation of data from such paperwork as mentioned above and/or manage the assessment of equality and diversity issues, including Equality Impact Assessments. What steps were taken by senior officers to collate source data from officers regarding use of force; use of spray; to monitor such data; and to consider and assess whether there were any differentials or disproportionality indicative of bias, particularly based around race. What steps were taken, if any, to identify and analyse such differentials on a statistical basis and what action was taken, if any, to address any differences identified.
- What involvement, if any, did Senior Officers have in the event racism or potential racism was reported by individual officers; and what steps would be taken to address the matter.
- What were the consequences for the individual attending officers or the Senior Officers for any failures to complete or monitor completion of such paperwork? In particular, what consideration, if any, was given by Senior Officers to raising disciplinary or misconduct proceedings or imposing

sanctions in relation to any failures by individual officers to complete any paperwork.

- What was the understanding of Senior Officers in relation to the status of officers and those officers' responsibilities to complete paperwork as at 3 May 2015? What was the understanding of Senior Officers in relation to the status of officers in the absence of any misconduct proceedings having been taken against individual officers?
- Who was responsible for sharing with individual officers their status and the view of PIRC? What steps were taken by Senior Officers to comply with requests from PIRC to obtain operational statements from the individual attending officers regarding the events of 3 May 2015? To what extent, if any, did Senior Officers consider they had adequate powers to obtain such statements and to ensure the completion of Use of Spray forms; Use of Force forms; and the completion of notebooks in the circumstances?
- What arrangements were in place to control, store and record the usage of, and monitor the use of, CS and PAVA sprays and their discharge? To what extent were arrangements in place to implement the findings from the PIRC Report dated 23 March 2015 following an investigation into the use of CS spray by officers of Police Scotland at the Victoria Hospital, Kirkcaldy on 18 October 2014.
- To what extent were procedures in place to administer the acquisition, retention, distribution; receipt or return of CS and PAVA canisters for P Division (Fife) of Police Scotland; and who was responsible for implementing appropriate procedures and auditing same.
- What were the consequences for the individual attending officers or the Senior Officers for any failures to complete or monitor completion of such forms. In particular, what consideration, if any, was given by Senior Officers to raising disciplinary or misconduct proceedings in relation to any failures by individual officers to complete such forms.
- What involvement did Senior Officers have in managing the gathering of evidence from eye witnesses.

### **Training**

- What training, if any, had been received by Senior officers in Kirkcaldy Police Office in around May 2015 regarding equality and diversity and racial discrimination. What training, if any, had Senior Officers had in relation to institutional racism; what steps had Senior Officers taken to address any unconscious bias. What training would have assisted them.
- What steps, if any, were taken by Senior Officers or internally by Police Scotland, after the death of Mr Bayoh to learn lessons from the incident and his death; or to examine the individual actions of the attending officers.
- After the death of Sheku Bayoh, what steps, if any, were taken internally or by Police Scotland to provide (additional) equality and diversity training, including training in relation to race discrimination. What training, if any, was given to assist officers to avoid unconscious bias on the basis of race or perceived race. What training, if any, was given to officers to improve their knowledge of de-escalation techniques when responding to incidents?

As before, whether or not there was any racial bias will be a matter considered by the Chair after later hearings.

**Parallel Investigation**

We will explore with the family their awareness and concerns of an apparent parallel investigation being conducted.