

# Crown Office and Procurator Fiscal Service

Procurator Fiscal's Office  
10 Ballater Street, Glasgow G5 9PS



## CRIMINAL ALLEGATIONS AGAINST POLICE DIVISION

Kate Frame  
Police Investigations and Review Commissioner  
Hamilton House  
Hamilton Business Park  
Caird Park  
HAMILTON  
ML3 0QA

Enquiries: 0844 561 3000  
(from landlines) and  
01389 739557 (from mobiles)  
Legal Post -  
[REDACTED]

Your ref:  
Our ref: LAB/CM  
Date: 24/08/2015

Dear Ms Frame

In terms of Section 33A of the Police, Public Order and Criminal Justice (Scotland) Act 2006, I write to ask you to carry out an investigation in relation to the circumstances in relation to attached correspondence from Aamer Anwar.

I have written today to the Deputy Chief Constable Neil Richardson of Police Scotland to advise him that I have instructed you to take forward the investigation into this case and I have asked him to facilitate a handover of the investigation to you.

I am happy to discuss any of the foregoing and would be grateful if you could confirm receipt of this letter.

Yours sincerely

[REDACTED]

L A BROWN  
Head of Criminal Allegations Against Police Division

Enc



**AAMER ANWAR & CO**  
SOLICITORS & NOTARIES

Our ref: AAAS

31<sup>st</sup> July 2015

Mr Stephen House QPM  
Chief Constable  
Police Headquarters Scotland  
PO Box 21184  
Aberdeen  
FK10 9DR

Also by email to [REDACTED]

Dear Sirs

Re: Death of Sheku Bayoh in Police Custody

We refer to the above and act on behalf of the Sheku Bayoh family.

We appreciate that the matter has been referred to the PIRC for investigation however the Bayoh family have asked me to raise a number of concerns which they believe are relevant to Police Scotland as they contain allegations of criminality which would require urgent investigation by Police Scotland.

1) [REDACTED]

2) [REDACTED]

3) [REDACTED]



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AAMER ANWAR & CO  
LAW FIRM LTD

4)

[REDACTED]

5) Can you confirm whether police officers can resign or retire without the consent of the Chief Constable, during an investigation into gross misconduct or after such an investigation has concluded that the officer has a case to answer for gross misconduct?

Many police officers resign or retire whilst subject to an investigation for gross misconduct or when required to attend a misconduct hearing, resulting in the investigation not being pursued or the hearing not concluding.

This can be damaging to trust and confidence in policing. It is important that officers who commit gross misconduct are brought to justice through the police disciplinary system.

Police forces often see the resignations of officers subject to disciplinary proceedings as a success due to the money saved, and the fact that the officer is out of the force. They are therefore unlikely to stop officers resigning without government intervention.

We understand that a statutory Instrument was introduced in England and Wales to prevent officers from resigning or retiring without the authority of a chief officer or the authority.

Can you advise whether this would be a necessary step in Scotland to improve confidence in the police complaints and disciplinary systems and in policing integrity more broadly by ensuring that police misconduct is punished effectively; and to ensure that there is no perception amongst the public that police officers are able to escape justice through resignation or retirement.

6) It was also alleged by the family that PC Alan Paton and his colleagues regularly access the police data bases and other Crime file systems to check up on the personal data of individuals without the consent of the data controller namely the Chief Constable, without there being a 'policing purpose'.

To do so would be a clear breach of the Data Protection Act 1988 and officers would be subject to criminal proceedings.

Can you advise whether an audit has been carried out in terms of PC Paton along with the ten other officers from the incident or any other colleagues in accessing such systems and viewing personal data relating to any of the civilians connected to this case including the deceased?

The individual's names whose personal data may have been accessed is:-

Colette Eleanor Bell ([REDACTED] 1988),  
Lorraine Bell,

Aminata Bayoh ( [REDACTED] /1949),  
Zahid Saeed,  
Kadijatu Johnson ( [REDACTED] 1977),  
Kosna Bayoh ( [REDACTED] /1975),  
Adeyomi Johns ( [REDACTED] 1977),  
Adama Jalloh ( [REDACTED] /1980),  
Mohammed Amer Anwar ( [REDACTED] /1967)  
Martyn Dick,  
Kirsty Macleod,  
Jamie Hume,  
[REDACTED]

Albeit there may be many others whose details may have been accessed in relation to this investigation but whose details we are unaware of.

- 7) We would submit that such an audit should be carried out for Alan Paton, [REDACTED] and other officers for access to personal data as the Bayoh family are seriously concerned with regards to the serious allegations made to them.
- 8) The audit would of course be a simple process, as in order to access the police network and Crime file data base, the user has to enter their shoulder number (sometimes referred to as a user name or user number for IT purposes) and a password which should only be known by that individual.

When logging onto the network and logging onto the data base, a footprint of the user's access is logged which through audits shows specific times, dates, locations and usage.

- i. A persons list on the Crime file for instance would bring up a list of all the persons involved and their status in the immediate aftermath of the death of Sheku Bayoh enquiry.
  - ii. With regards to witnesses, suspects, complainers, accused persons; the persons list shows their surname, forname, sex and date of birth. The civilian witness page shows these details as well as home address, business address, ethnicity, nationality, occupation, telephone numbers, driver number, CFS2 and PNC numbers (if applicable) and their nominal history
- 9) Can you advise if and when PIRC were present at Kirkcaldy Police Office and whether their investigating officers shared accounts in the presence of Police Scotland senior management, the Police Federation and/or Pife Police Officers.
- 10) In England the case of Saunders<sup>113</sup> prohibits conferring between officers, albeit in that case following police shootings.

This is essential to protecting the integrity and honesty of officer accounts following all deaths in custody and to prevent corruption of the evidence gathering stage.

Can you advise as to what guidance or mechanisms exist on the ground in Scotland to ensure such protection?

We appreciate that the Polleo Scotland at this present time is under a great deal of pressure but we hope that the above matters can be resolved in some way to the satisfaction of the family.

We look forward to hearing from you.

Yours Sincerely

Aamer Anwar  
Aamer Anwar & Co

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<sup>3</sup> R (on the application of Saunders) v PCC [2008] EWHC 2372 (Admin), 10 October 2008  
[http://www.bailii.org/uk/cases/\[\[EWHC/Admlc/2008/2372.html](http://www.bailii.org/uk/cases/[[EWHC/Admlc/2008/2372.html)