

ANNEX

COPFS POST INCIDENT MANAGEMENT

AREAS FOR WITNESS STATEMENT

MR JOHN LOGUE

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. Please mark on your statement the number of which paragraph of questions you are answering.

If you refer to any document in preparing your statement, please provide a brief description of the document and which page you have referred to.

Role and experience

1. What was your grade and position in COPFS during your involvement in the post incident management and investigation into the death of Mr Sheku Bayoh (“the Investigation”)? How long had you been in this position prior to the date you became involved? What were your duties and responsibilities in this position? Please include your role as Deputy Crown Agent for Serious Casework and separately as Deputy Crown Agent for Operational Support.
2. Please explain your role and responsibilities as Data Protection Officer for COPFS. Over what period of time were you COPFS’ Data Protection Officer?
3. When did you first become involved in the Investigation? What were the circumstances in which you became involved?
4. What do you understand to be COPFS’ role in the investigation of sudden, suspicious, accidental and unexpected deaths in Scotland as of the date you became involved? What do you understand COPFS’ duties and responsibilities to be in this regard?
5. Prior to the date you became involved, what experience did you have in investigations of deaths in police custody, or deaths during or following police contact? Please provide details and the outcome of the cases. Was race a factor to consider in any of these cases? If so, please provide examples.
6. Prior to your involvement, what experience did you have in relation to family liaison in deaths cases? Was race a factor to consider in family liaison in any of these cases? If so, please provide examples.

The Police Investigations and Review Commissioner (“PIRC”)

7. What experience did you have in dealing with PIRC prior to the date you became involved?
8. What is your understanding of the relationship between COPFS and PIRC in the Investigation? What is the interaction between COPFS and PIRC, for example do PIRC require to follow COPFS’ direction? To what extent is this interaction the same as that of COPFS and Police Scotland in a criminal investigation?
9. What involvement did you have with PIRC in relation of the Investigation?
10. What was your involvement, if any, in relation to whether anyone from COPFS should attend Kirkcaldy in person on 3 May 2015? Did you consider whether a colleague should attend to assist PIRC in the initial stages of their investigation and to attend meetings with PIRC and Police Scotland in person? What benefit could have been gained by PIRC and Police Scotland if someone from COPFS had attended? Why was Mr Bernard Ablett requested to attend the post mortem examination but no-one from COPFS attended any other aspects of post incident management, for example Police Scotland Gold Group meetings? To what extent was it consistent with normal practice for no-one from COPFS to attend Kirkcaldy in person on 3 May 2015? Insofar as you were involved, please explain the basis for any departures from normal practice.
11. Were you aware that Mr David Green, Head of the Scottish Fatalities Investigation Unit at COPFS, was personally attending a scene following a light aircraft crash reported in the late afternoon/evening of 3 May 2015? Were you involved in deciding that he should attend for the day on 4 May 2015? If so, what was the basis for this decision and why was Mr Green attending this scene but no-one from COPFS had attended Kirkcaldy following Mr Bayoh’s death on 3 May 2015?
12. Please read the email chain between you and Mr Green on 4 May 2015.¹ At 5:37pm you explain that, following a PIRC written briefing, PIRC’s investigation was too focused on police contact and would need to be expanded, and that the matter would be dealt with the next morning “*once we get a clearer briefing*”. What was unclear about the briefing to this point? What other matters did you want to address before expanding PIRC’s instruction? In light of this, would it have assisted for someone from COPFS to have attended in person on 3 May 2015 to obtain a clearer briefing and understanding of what had happened?
13. Mr Green replied to your above email the same day at 7:30pm² to say: “*I have not sent a formal instruction to PIRC or Police Scotland as yet due to the weekend and other issues.*” What was your understanding of the other issues

¹ COPFS-03876

² COPFS-03876

Mr Green stated as being the reason for the delay in formal instruction? Further, Mr Bernard Ablett emailed an update following the post mortem examination on 4 May 2015 at 7:23pm³ confirming “*PIRC are looking for Terms of Reference from COPFS*” and that Police Scotland’s ACC Ruaraidh Nicolson was looking for a meeting with COPFS to underline police commitment to an independent investigation. Mr Green replied that he was not sure if Mr Ablett is the right person to meet with ACC Nicolson. In light of all these considerations, would it have assisted to have Mr Green or a COPFS colleague attend in person on 3 May 2015 and beyond in order to provide updates and steer the Police Scotland and PIRC investigation as matters developed? Did Mr Green’s attendance at the plane crash affect COPFS’ ability to provide instructions to Police Scotland and PIRC in the early days of their investigation?

14. To what extent do you agree with Mr Alasdair MacLeod’s summary of PIRC’s instructions on pages 1 and 2 of the Briefing Note to Mr Justin Farrell dated 28 February 2020?⁴ Please see the PIRC instructions listed at the bottom of this Annex.
15. On page 7 of Mr MacLeod’s summary of the Investigation to Mr Farrell,⁵ the following is said to be the views of the precognoscers:-

The precognoscers found it of interest that the information about the rib fracture which was only made known to PIRC on 29th May 2015 was somehow potentially being explained away by three of the officers when they provided statements on 4th June 2015. After careful consideration of all the evidence there was insufficient evidence to make any more of it other than to say it was suspicious, and potentially called into question the integrity of the PIRC investigation at that point.

Were you aware of this view? If so, did you agree with this and in what respects was PIRC’s integrity in question? Was this ever raised with PIRC directly? What was their response?

16. What duties are incumbent on you in relation to PIRC’s investigation? To what extent did you fulfil these duties? Insofar as not already covered, to what extent was your involvement in the control, direction and guidance of PIRC’s investigation consistent with normal practice? Please set out your reasoning for any departures from normal practice. To what extent, if any, was race a factor for any departures from normal practice?
17. Please read the Memorandum of Understanding between COPFS and PIRC dated 10 and 11 December 2013 (“the MOU”).⁶ Were you aware of the MOU during your involvement in the Investigation? Were any further duties incumbent on PIRC or COPFS in light of the MOU? If so, how did you satisfy these requirements on COPFS? In particular, at para 7.5 on page 5, were

³ COPFS-04705

⁴ COPFS-02126 (a)

⁵ COPFS-02126 (a)

⁶ PIRC-04453

PIRC instructed to report by way of a Full Investigation Report on the agreed template or an SPR together with full statements and productions? What, if any, timescales were determined in the instruction?

18. The MOU⁷ at para 12.4 on page 9 provides that representatives of CAAPD, SFIU and PIRC will meet annually on a date agreed in order to discuss the operation of this MOU, issues of mutual interest and any requirement to amend the terms of the MOU; are you aware of these meetings taking place? What was your role, if any, in this aspect of COPFS liaison with PIRC?
19. What role, if any, did you have in any quarterly meetings with PIRC? Please set out the dates of these meetings and what, if anything, was discussed that relates to the Investigation.
20. Please read the email chain between your COPFS media colleagues and the Lord Advocate dated 28 to 30 August 2015⁸ relating to PIRC's media release following their report being provided to COPFS and criticism from Mr Anwar relating to delays in PIRC establishing the cause of Mr Bayoh's death and the use of US-based experts speaking to "excited delirium". The Commissioner, Ms Kate Frame, appears to have departed from the direction she was given by the Lord Advocate and released her own statement to the media to directly respond to Mr Anwar's comments in the media; please provide your comment on this matter and include your view on whether this is a breach of PIRC's duties to follow the Lord Advocate's direction. Do you consider this a breach of PIRC's duties under Section 41A of the Police, Public Order and Criminal Justice (Scotland) Act 2006? Please explain your reasoning.
21. Do you recall the Lord Advocate's response to the Commissioner's media line that was issued on 30 August 2015? Was anything done, or should it have been done, if the Commissioner had departed from the Lord Advocate's direction? Do you know why the Commissioner released this statement to respond directly to Mr Anwar? Were you involved in any discussions between COPFS and PIRC on this matter following the media line being issued? Did you understand there to be any frustration in PIRC that their engagement with the media was not directly responding to criticism? Were you, or are you now, sympathetic to these frustrations?
22. What is COPFS' role in relation to PIRC's funding of expert witnesses? What is COPFS' role in funding of expert witnesses in relation to criminal investigations that do not involve PIRC? Please read your PA's email to Mr Stephen McGowan dated 9 September 2015⁹ regarding COPFS funding PIRC's expert witnesses. What was it about the request that provoked your response? Were you aware of PIRC's costs to date in that regard? Did you expect PIRC to have incurred this level of cost?

⁷ PIRC-04453

⁸ COPFS-02682

⁹ COPFS-05126

Lord Advocate

23. What is your understanding of the role of the Lord Advocate in the Investigation? Please outline the dealings you had with the Lord Advocate during the course of your involvement in the Investigation.
24. Did you have any involvement in meetings between the Lord Advocate and Mr Bayoh's family? If so, which meetings did you attend? Who was present? What was your recollection of these meetings? What was the outcome of these meetings and what was your understanding of what the Lord Advocate, and COPFS, had undertaken to do?
25. In your experience, in what circumstances does the Lord Advocate meet with the family of a deceased person as part of a COPFS investigation? What difference in approach to Mr Bayoh's family, if any, occurred when Mr Wolffe QC succeeded Mr Mulholland QC as Lord Advocate on 1 June 2016?
26. To what extent was the involvement of the Lord Advocates in the Investigation normal practice or unusual, in your experience?
27. Please read your email to the Lord Advocate dated 5 May 2015,¹⁰ the PIRC Briefing Document¹¹ that was attached to the email and PIRC's Ms Irene Scullion's email to you dated 5 May 2015.¹² Why was Ms Scullion emailing this update to you? Why were you updating the Lord Advocate? Were there any further sources of your update to the Lord Advocate beyond the PIRC Briefing Document and Ms Scullion's email? To what extent is the factual information accurate to your understanding at that point in the investigation? In particular, was it the case that COPFS had instructed PIRC in writing under Section 33A(b)(i) of the 2006 Act and did you understand that PIRC FLOs had engaged with Mr Bayoh's family the night before and PIRC were confident that a relationship could be established?
28. Please read the email chain between you, Mr Green and Mr Stephen McGowan relating to delay in the investigation.¹³ This email chain includes an email from Mr Green to you on 6 May 2015 at 3:36pm with Mr Green setting out the reasons for a delay in releasing the body of Mr Bayoh, includes a comment on the independence and impartiality of the NHS laboratory staff and in which he states: "*If slides are prepared then these slides should be available for examination by anyone else the family would like to have a look at them.*" Mr Green then explains: "*I appreciate that this does not meet the Lord Advocate's desires but that is simply not possible.*" What were the Lord Advocate's desires and what part of this explanation did not meet with them? Please provide the background and context to this email. What did you do following this explanation?

¹⁰ COPFS-02685

¹¹ PIRC-03694

¹² COPFS-03875

¹³ COPFS-04924

29. Please read the email chain between you, the Crown Agent and Mr McGowan dated 6 May 2015.¹⁴ Mr McGowan explains that a pathologist Dr Colin Smith was able to do an examination on Mr Bayoh's body before going on holiday and that the Lord Advocate was irate and demanded Dr Smith's report because appearance is everything. You then had a telephone call with Mr McGowan. Please explain these matters further and, in particular, provide your recollection of your telephone call with Mr McGowan, set out your understanding of why the Lord Advocate was irate and explain your understanding of what he meant by "*appearance is everything*".
30. Please read Mr David Harvie's email to you dated 10 June 2015.¹⁵ Mr Harvie refers to a promise being made by the Lord Advocate to Mr Bayoh's family that he would make no public statement on this case until concluded. Were you aware of this promise prior to this email? What were the circumstances in which this promise was given? Did COPFS accommodate this promise in future public statements? Was this promise binding on Mr James Wolffe QC when he succeeded Mr Frank Mulholland QC as Lord Advocate?
31. Please read your emails with Mr McGowan dated 9 July 2015.¹⁶ What is the issue set out in the email and what was discussed with the Lord Advocate in your meeting that day? Was the matter resolved? Mr McGowan refers to the Lord Advocate having "*committed to us giving assistance*". What did you understand that to be and how was this commitment made? Was this commitment binding on Mr Wolffe QC when he succeeded Mr Mulholland QC as Lord Advocate?
32. Please read your email chain with your media colleagues dated 20 July 2015¹⁷ and the letter from the Lord Advocate to Mr Torrance dated 19 June 2015¹⁸ referred to in the emails. Was there a reasonable expectation at this time in COPFS that there would be an FAI and a prosecution? You suggested to your colleague that he could use the example of the Lockerbie FAI and prosecution; was this example analogous to the Investigation? Please explain why you raised this as an example. What other examples of a prosecution following an FAI are you aware of?
33. Regarding the letter from the Lord Advocate to Mr Torrance dated 19 June 2015,¹⁹ did the Lord Advocate's position that there would be an FAI have any impact on the Investigation? Did Mr Wolffe QC maintain this position when he succeeded Mr Mulholland QC as Lord Advocate?

¹⁴ COPFS-04967

¹⁵ COPFS-01309

¹⁶ COPFS-05040

¹⁷ COPFS-05535

¹⁸ COPFS-01483

¹⁹ COPFS-01483

Family liaison

34. What is your understanding of COPFS' role in liaison with the deceased's family in deaths cases? How does COPFS' role interact with the role of Police Scotland and PIRC in family liaison?
35. What, if any, duties or responsibilities do COPFS have to the deceased's family during the course of a PIRC investigation? What duties or responsibilities do COPFS have to the deceased's family during the Investigation? How were these duties or responsibilities fulfilled? Was there a handover of family liaison from PIRC to COPFS?
36. Please read the email chain between you, the Crown Agent Ms Catherine Dyer and Mr McGowan dated 6 May 2015.²⁰ In the minute to the Scottish Ministers set out in your email of 14:34, the Lord Advocate explains that it would be important to build and maintain the confidence of the deceased's family in the independence and thoroughness of the investigation. Do you agree with this? What was done to ensure that this was built and maintained throughout the Investigation? Do you think COPFS were successful in achieving this? If not, what went wrong and what could have been done differently?
37. What involvement did you have in family liaison in relation to Mr Bayoh's death? What was your involvement, if any, in deciding what to disclose to Mr Bayoh's family?
38. With reference to Mr MacLeod's letter to Mr Farrell dated 28 February 2020 page 3,²¹ the following summary is made in respect of family liaison:

From the outset the Anwar & Co were on an exceptional basis provided with significant disclosure. This disclosure was provided solely to enable them to instruct their own medical experts. The family were also from the beginning invited by the Crown to provide input to the Crown investigation and did so by e.g. suggesting particular lines of enquiry and providing the details of a number of expert medical witnesses some of who subsequently provided reports to the Crown.

Do you agree with this summary? What made the basis of the disclosure exceptional? In this regard, PIRC's Mr John McSporrان has stated to the Inquiry the following: "*There was the potential for PIRC FLOs and COPFS to be providing different information to the family and their solicitor, which would undermine confidence in the PIRC FLOs and the overall investigation. In my experience, it was highly unusual for COPFS to provide such information direct to the family and their solicitor during a live investigation, particularly during its early stages.*"²² Do you agree with Mr McSporrان? Was the disclosure in this manner a departure from normal practice? If so, what was

²⁰ COPFS-04967

²¹ COPFS-02126 (a)

²² SBPI-00361 at para 91. Please note this statement has not been shared with you.

the basis for this departure? To what extent was race a factor in any departures from normal practice?

39. What is your understanding of the role of COPFS' Victim Information and Advice service ("VIA") in family liaison in a death investigation? Were VIA involved in this case? Insofar as you are aware, what was the basis for VIA involvement or non-involvement with Mr Bayoh's family?

Police officers' status

40. What is COPFS' role, if any, in determining if a person's status is that of witness or suspect in an investigation into a death in custody or a death during or following contact with the police? What is the significance for the Investigation of a person's status? In the event that there is no reasonable suspicion in respect of any person(s) in an investigation, what is COPFS' role in identifying a suspect?
41. What was your involvement, if any, in determining if the status of the officers who engaged with Mr Bayoh, or any other persons, was that of witness or suspect in the Investigation? To what extent were your decisions and actions in this regard consistent with normal practice? Was race a factor in any departures from normal practice? In hindsight, are there any aspects of your decision-making or actions in this regard that you would do differently?
42. When was the police officers' status decided? Why was it decided at that time? Was it subject to change? When would it be reconsidered, if at all? What was your involvement in any reconsideration of the police officers' status?
43. Can COPFS provide any undertakings to officers involved in a death in custody or death during or following police contact in order to obtain their account of the incident? If so, when are these undertakings made and what is their purpose? Were these undertakings considered in the Investigation?
44. What advantages, if any, would be gained from charging the officers and interviewing them under caution? What disadvantages, if any, would result from the officers being charged and interviewed under caution? To what extent were your decisions and actions in this regard influenced by reporting, or potential reporting, in the media? Is there a reluctance on you or your colleagues' part to instruct the police or PIRC to charge police officers with criminal offences occurring in the course of their duty that is not apparent when dealing with civilians? If so, what is the reason for this?

45. Please read the following correspondence discussing whether there is a requirement for the police officers to provide a statement detailing their involvement in engaging with Mr Bayoh:-

- the letter from the Chief Constable to the Lord Advocate dated 15 May 2015;²³
- the letter from the Lord Advocate to the Chief Constable dated 22 May 2015;²⁴
- the letter from Mr Brown to DCC Neil Richardson dated 22 May 2015;²⁵
- the letter from the Chief Constable to the Lord Advocate dated 29 May 2015;²⁶
- the letter from the Lord Advocate to the Chief Constable dated 5 June 2015;²⁷
- [REDACTED];²⁸
- the email chain between you, Mr McGowan and Mr Brown dated 11 June 2015;²⁹ and
- the letter from Mr Brown to DCC Richardson dated 25 June 2015.³⁰

In your email noted above you mention speaking to DCC Richardson and DCC Livingstone on 10 June 2015; what was discussed? Did you discuss the Lord Advocate's letter and Police Scotland's response? What were the areas that were confused with Police Scotland? Did Police Scotland explain why they were reluctant to agree that their officers required to provide statements? Did Police Scotland give any views on whether their officers had a statutory duty to provide statements, as suggested by the Lord Advocate and Mr Brown in their letters? Did anyone from Police Scotland give a view on the police officers' Oath of Office and how it related to any requirement for them to give a statement of their involvement? In what respects, if at all, did you discuss the officers' privilege against self-incrimination? Was the expectation that the officers would provide statements in an interview setting with PIRC or write their own statement? What was the outcome of these discussions?

46. Please read the document you prepared for the COPFS website entitled "Investigations by the Police Investigations and Review Commissioner Under the Direction of the Crown"³¹ and the related email chain between you and the Lord Advocate dated 10 and 11 June 2015.³² Why did you prepare this document and what was the background? What matters were clarified in this note? How did this note relate to the issue of PIRC's powers and their capacity to compel police officers to provide statements? Do you think this

²³ PS08484

²⁴ COPFS-02855

²⁵ COPFS-02851

²⁶ PS04250

²⁷ COPFS-02844

²⁸ [REDACTED]

²⁹ COPFS-06275

³⁰ COPFS-02849

³¹ COPFS-05633

³² COPFS-01309

note achieved its purpose? Is this a normal approach to what guidance is published on the COPFS' website?

47. In a letter to Mr Anwar dated 10 September 2015,³³ the Commissioner out her response to a concern of the family in the following terms:-

Firstly, I note that they suggested that the powers available to PIRC had either not been utilised or were lacking.

In particular, the family appear to be concerned that the police officers who engaged with Sheku Bayoh in Hayfield Road, were not detained immediately and interviewed.

As you will be aware, dependent on the circumstances of any case, a police officer may have the legal status of a witness or a suspect. If they are considered to be a witness, they may have the same rights as any civilian and therefore cannot be compelled to provide a statement. If on the other hand, they are considered to be a suspect, they may be detained for the purposes of giving a statement but cannot be compelled to speak or incriminate themselves.

For someone to be considered a suspect, you will appreciate that in terms of Section 14 of the Criminal Procedure (Scotland) Act 1995, there has to be a reasonable suspicion that they have committed a crime.

In this particular case, as you know, as it has not been possible (to date) to establish a precise cause of death, it has not so far been possible, in a legal context, to establish that a crime has been committed.

Accordingly, the police officers could not be detained as suspects in terms of the Criminal Procedure (Scotland) Act.

In these circumstances and in compliance with Scottish Criminal Law, the police officers have been considered meantime as witnesses. As you will know, there is nothing in law which compels a witness to provide evidence to investigators (be they police officers or PIRC investigators) and I am sure you will recognise the importance of my investigators acting within the law, so that any evidence obtained by them, may be admissible in the event of any future proceedings.

In a further letter to Mr Anwar dated 9 October 2015,³⁴ the Commissioner states:-

With regard to your query relating to the detention of police officers in terms of Section 14 of the Criminal Procedure (Scotland) Act 1995, as

³³ PIRC-01835(a). Please note this document has not been shared with you.

³⁴ PIRC-01849

you know, from the inconclusive Scottish post mortem, it has not been possible to establish a precise cause of death or to establish meantime, that a crime has been committed. In terms of Scots Law, it is not lawful to detain any person (police officer or member of the public) unless it has been established that an offence punishable by imprisonment has been committed. In compliance with Scottish Criminal law, PIRC has not, to date, detained any police officer in respect of this case.

To what extent do you agree with the position the Commissioner has set out? If your understanding of the law at the time differed from the Commissioner, please explain why. What is it about the cause of death that you understand to be essential to reasonable suspicion, or establishment of an offence punishable by imprisonment? How does this interact with COPFS instructing an investigation under Section 33A(b)(i) rather than (ii) of the 2006 Act, being investigation of the circumstances in which a police officer may have committed an offence? In your view was there reasonable suspicion in relation to any of the officers at this point in the Investigation? Was this decision a matter for COPFS or PIRC?

48. The Lord Advocate in his letter to the Chief Constable dated 5 June 2015³⁵ sets out the following position:

The discussions between Crown Office officials and Professional Standards Department did not in any event cover investigations conducted by PIRC on the instructions of the Lord Advocate. The concerns about compelling officers suspected of committing a crime to provide a statement only apply to investigations about police officers carried out by the police themselves. They do not apply to PIRC who when investigating allegations of criminality against police officers must make their own operational judgements as to who is a suspect and who is a witness.

Do you agree with the Lord Advocate's point that determining whether a police officer is a witness or a suspect is a matter for PIRC's own operational judgement? How does this fit with what the Commissioner has stated in her above letters to Mr Anwar and your views on what she has explained?

49. To what extent is it normal for PIRC to conduct an investigation and prepare a report of findings when there is no reasonable suspicion in respect of any person? To what extent is it normal to draft and submit the Crown Precognition where there is no reasonable suspicion in respect of any person? In light of your answers and to the extent that you were involved, please set out why the Investigation was conducted in the way it was standing the status of the police officers.

³⁵ COPFS-02844

Ingathering of evidence and analysis

50. What is your understanding of COPFS' role in investigating a death in custody or death during or following contact with the police? How does COPFS' role interact with the role of Police Scotland and PIRC in investigating?
51. After you first became involved in the Investigation, what description of the events leading up to and including Mr Bayoh's death was explained to you? When, how and by whom was this information provided to you?
52. Over the course of your involvement in the Investigation, in what ways, if any, did your understanding of the circumstances of Mr Bayoh's death change from the information initially provided to you?
53. At any stage in the Investigation did you consider that COPFS should investigate potential offences in relation to the drugs Mr Bayoh had consumed, for example identifying and investigating the supplier for culpable homicide or offences under the Misuse of Drugs Act 1971? Would this be a matter for PIRC or Police Scotland to investigate? Who is responsible for instigating this investigation? Please set out the reasoning for your decisions and explain any departures from normal practice.
54. Please read the email from Mr Les Brown dated 24 August 2015.³⁶ Please set out your recollection of the issue of the understanding of restraint and the discussions surrounding this email. Is an assessment of the officers' credibility and reliability in their accounts a matter to address in the Investigation? If so, are you aware if this issue in Mr Brown's email was addressed in the Investigation? In your view, should it have been?
55. With reference to your email to PIRC dated 20 July 2016,³⁷ why would the toxicology evidence relating to Alpha-PVP not need to go further than research that this drug would make people violent? Was this the approach taken by COPFS in relation to toxicologist expert opinion?

Post mortem examination and the release of Mr Bayoh's body

56. What is your understanding of COPFS' role in instruction and attendance at the post mortem examination in the case of a death in custody or death during or following contact with the police? To what extent, if any, does this differ from any other type of death investigation?
57. Please explain your involvement in the post mortem examination and reporting process. To what extent was your involvement consistent with normal practice?
58. Please read the email from the Lord Advocate and your response dated 26 May 2015.³⁸ Mr David Torrance MSP is said to have spoken with the Lord

³⁶ COPFS-02035

³⁷ PIRC-01988

³⁸ COPFS-05061

Advocate and raised the issue of the release of Mr Bayoh's body. The Lord Advocate indicated to Mr Torrance that Mr Anwar may now be giving the go ahead for release of Mr Bayoh's body and that the Lord Advocate offered to go to Fife to meet local Imams to explain the process. Were you involved in this decision for the Lord Advocate to visit Fife to speak with Imams? What was the basis for doing so? Was this a request from Mr Bayoh's family or their legal representatives? You raise the difference between an Iman and an Imam in your email; what is your understanding of an Iman and do you recall where you became aware of this? What did you mean when you wrote an Iman and an Imam are a "*completely different thing*"? Did these meetings take place? If you were involved, what was discussed and explained in these meetings?

European Convention on Human Rights ("ECHR")

59. During the Investigation, were you involved in discussions in any form relating to COPFS' obligations under Articles 2 and 14 of the ECHR in respect of Mr Bayoh and his family? If so, what was your understanding of these obligations and how, if at all, did this affect your approach to your work?
60. To what extent was Article 2 of the ECHR considered in the Investigation in respect of the duties of Police Scotland and PIRC?

Media engagement

61. What is your understanding of COPFS' role in engagement with the media following a death in custody or death during or following contact with the police? How does COPFS' role interact with the role of Police Scotland and PIRC in media engagement?
62. Were you following the media reporting of the matter? To what extent, if any, was your involvement in the Investigation influenced by what was reported in the media? Were you aware if any of your colleagues in COPFS or the Lord Advocate were influenced in their actions and decision-making by what was reported in the media?
63. What involvement did you have, if any, in COPFS' media engagement? This may include discussing media lines with colleagues, liaison with the COPFS media department, direct contact with the media or providing information to colleagues dealing with the media.

64. On 3 May 2015, Police Scotland prepared the following statement³⁹ and shared it with PIRC and COPFS for approval:-

Death in police custody, Kirkcaldy

At around 7am this morning (Sunday, May 3) police in Kirkcaldy responded to a number of calls from members of the public reporting a man brandishing a knife in the Hayfield Road area.

On arrival the officers encountered the man and whilst attempting the apprehend him, he lost consciousness and a female officer also sustained a head injury.

Police officers commenced first aid procedures and the man was taken to Victoria Hospital by the Scottish Ambulance Service, where he sadly died. The female officer was also taken to hospital, and she has now been released.

Divisional Commander Chief Superintendent Garry McEwan said: "This is a tragic set of circumstances and my condolences go to the man's family. We currently have officers with them to provide information and support where appropriate.

"We recognise that this is an extremely difficult and distressing time for both the family and the officers involved and I have instigated the necessary post-incident procedures.

"The investigation of deaths in Scotland is the responsibility of Crown Office and Procurator Fiscal Service, who have instructed the Police Investigations and Review Commissioner to lead on this enquiry. The circumstances into the death will be fully explored and reported to the Crown Office in early course"

Anyone with information regarding this incident is asked to contact Police Scotland on 101 or anonymously through Crimestoppers on 0800 555 111.

Were you aware of this? What was the basis for this statement not being released? Was the narrative of events consistent with what was understood by COPFS at the time? Could this statement have been amended and released? In this regard, to what extent were your decisions and actions, and those of COPFS generally, consistent with normal practice?

65. What is your understanding of the SPF's role in Police Scotland's media engagement? What is your awareness of the SPF's approach to media engagement? Do you have any comment on the suitability of the SPF's approach? Do SPF seek COPFS' approval before releasing a statement in the same manner as Police Scotland did?

³⁹ PS02751

66. In preventing a statement, such as the above draft attributed to Ch Supt Garry McEwan,⁴⁰ being released by Police Scotland, did you have any concerns that the police officers involved would be unhappy that no comment was being made in response to the speculation in the media about what happened in the incident? Were you made aware of any concerns on the part of the officers involved? What difference, if any, did this or would this have made to your approach to media engagement? Did you expect the SPF to issue a statement on behalf of the officers following the lack of comment from Police Scotland? If a statement had been made by Police Scotland, do you think this would have prevented, or minimised to some extent, speculation in the media of what happened in the incident? With hindsight, would you have made different decisions or acted differently in relation to this?
67. Were you aware that a statement was released attributed to Ch Supt Garry McEwan, the P Division (Fife) Divisional Commander, in the Dundee Courier offering condolences to Mr Bayoh's family on 3 May 2015? Was this statement approved by COPFS? Are you aware of why this statement was made but the above statement was refused?
68. Please read your email chain with the COPFS' Head of Communications at the time Ms Lorraine Davidson on 4 May 2015.⁴¹ Ms Davidson explains by way of update that the brother-in-law of Mr Bayoh is a lay advisor to Police Scotland and "*told Police Scotland FLOs his view is that police planted the knife on the deceased as an excuse for police brutality.*" Police Scotland are said to be concerned that "*the family will seek media attention for their views and they want to be in a position to defend themselves if that happens*". Police Scotland are said to also want to clarify basic facts to correct inaccurate reporting at the time. Mr McGowan is said to have advised that PIRC can clarify the incident took place on Sunday morning not Saturday night however the police were advised to hold the line that PIRC are investigating. Further to this you had a call with DCC Livingstone to discuss the case on 4 May 2015; what was discussed? Did DCC Livingstone raise the issue of Police Scotland being able to defend themselves in the media or inaccurate reporting? If so, how did you respond? In terms of media strategy, how did you and COPFS accommodate the concerns of Police Scotland that they would need to defend themselves in the media and correct inaccurate reporting?
69. Please read your emails with your COPFS colleagues dated 6 May 2015 between 15:49 and 17:01⁴² and the draft PIRC media line that was attached thereto.⁴³ You asked for Mr Brown to call you, what was discussed in this telephone call? Thereafter Mr McGowan wrote that he spoke to Mr Anwar which he said went fine, and you replied that "*He knows we are playing it straight*". What did you mean by this?

⁴⁰ PS02751

⁴¹ COPFS-02685

⁴² COPFS-04923

⁴³ PIRC-02767(a)

70. Please read your emails with the Lord Advocate's office dated 6 May 2015 at 17:01 and 17:13 regarding PIRC's media release.⁴⁴ What was your understanding of the Lord Advocate's comment that you do not run ongoing enquiries in public? What did you understand to be the basis for PIRC's statement that the response to the request for information from the public had been "*heartening*"? What was this intended to achieve?

71. There is evidence before the Inquiry⁴⁵ that on or before 6 May 2015 PIRC: "*...tried to release a statement to media re allegation deceased had been asphyxiated, however the COPFS would not allow the statement to go out.*" Were you aware of this? What was your involvement, if any, in this decision? What was the reason for the decision?

72. Please read your email chain with Ms Davidson dated 6 May 2015.⁴⁶ In relation to describing Mr Bayoh's death as a death in custody, you state:

Can we refine slightly by removing the reference to police custody in both paras? Don't want to cause any confusion in relation to the point as to whether or not it is a mandatory FAI - we think not, and describing it as police custody may confuse that position in future.

In first para we can just leave it as a death in Kirkcaldy on Sunday 3 May.

What is the point relating to causing confusion in the event that there is an FAI? You write "*we think not*"; what discussions had taken place to that point regarding there being a mandatory or discretionary FAI and with whom? Did you and those in discussion on this point at that time expect that there would be an FAI rather than a prosecution of the officers involved in Mr Bayoh's death?

73. Please read your email chain with Ms Davidson dated 7 May 2015.⁴⁷ The response to the Herald's concern that not enough details of the incident have been released was that it is inappropriate to comment on an ongoing investigation. Is this consistent with normal practice for COPFS? In taking this line, was any consideration given to speculation in the media in relation to the incident?

74. Please read your email exchange with your media colleague on 24 August 2015.⁴⁸ What was your involvement in media engagement in the Investigation at this stage?

75. [REDACTED]

⁴⁴ COPFS-01371

⁴⁵ PIRC-04156 at page 6. Please note this document has not been shared with you.

⁴⁶ COPFS-06075

⁴⁷ COPFS-05393

⁴⁸ COPFS-05415

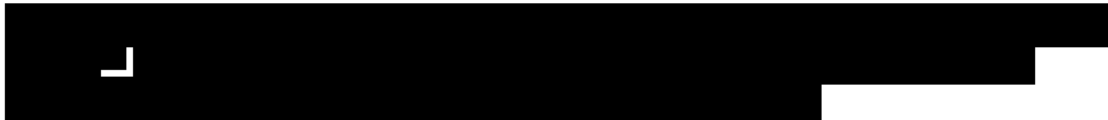
⁴⁹ [REDACTED]



Parallel investigation

76. Were you aware of an investigation into Mr Bayoh's death being carried out on behalf of the SPF by Mr John Sallens? Did you have any concerns about this? If so, what decisions and actions did you take to resolve the issue?
77. Were you aware of witness accounts that investigators provided them with information from other sources and made them feel uncomfortable?⁵⁰ If so, was anything done to address this?

78.



Investigation into the purported leak to the Mail on Sunday of the decision not to prosecute

79. What is normal practice for COPFS in a situation where there is a possible unauthorised release of information about an investigation to the media by a COPFS official? What breaches of COPFS policies and protocols may occur if a COPFS official releases information about an investigation to the media without authorisation? What is usually done in response to the release? What is the difference between situations where the investigation considers that it is a certainty that there is an unauthorised release of information from COPFS and a situation where it is not certain? What is normal practice for determining whether it is a certainty that the release of information is from a COPFS official? What difference, if any, is there between an investigation into the unauthorised release of information and the unauthorised release of documents by a COPFS official?
80. When did you become aware of the Mail on Sunday newspaper article dated 23 September 2018⁵² reporting the decision of COPFS not to prosecute any of the officers, prior to Mr Bayoh's family being informed? Were you aware of this article prior to its publication? If so, what was done in advance and who made the decisions? What was done on the day of the publication?

⁵⁰ For example, in Mr Mark Daly's statement to the Inquiry (SBPI-00119 at para 65) he recalls Mr Nelson telling him that investigators saying they were from the Police Federation entered his home and "*they start dripping poison in his ear about Bayoh*".

⁵¹

⁵² PS18106

81. What was your role and involvement in the investigation within COPFS into the source of the information in the Mail on Sunday's article?⁵³ Please also explain the roles of the following people in the investigation:

- Ms Lindsey Miller,
- [REDACTED], and
- [REDACTED].

82. Please read the email chain involving you and Ms Miller dated 24 September 2018.⁵⁴ Ms Miller states in her email at 15:14 that she spoke with you and you had discussed how difficult it may be to investigate this purported leak. What do you recall from these discussions and what were the difficulties?

83. [REDACTED] emailed the following to you and Ms Miller at 16:01 on 24 September 2018:-⁵⁵

Thanks Lindsey, the source is allegedly within the Justice System, but I believe that I would be able to give you a report that would cover the COPFS side with enough to say that checks have been made and we are satisfied that the leak did not come from us. Obviously we can only work with what we have.

If you are in agreement, I can do some background on the reporters social media presence, I would need the names of all our staff who were in both the discussions and the E Mail chain with their desk phone numbers. To start I will check if there has been any traffic either by E Mail or telephone to the reporter or the News desk at the paper. I will check on any friends within social media for any connections.

Whilst I appreciate this is a lot of ticking the boxes it may give the LA a bit of reassurance

At this stage, were you satisfied that COPFS was not the source of the Mail on Sunday's article? What made you sure of this? [REDACTED] proposal is to create a report to show COPFS are satisfied that the leak did not come from COPFS; did you have any concerns about an investigation into the source being concluded before it began? Do you have any concerns in light of [REDACTED] following point: "*Whilst I appreciate this is a lot of ticking the boxes it may give the LA a bit of reassurance*"? Was the Lord Advocate aware at this point that this is how the investigation into the source was proceeding?

84. Further in the email of 24 September 2018,⁵⁶ [REDACTED] suggests that he "*can do some background on the reporters social media presence*", check for email or telephone traffic with the reporters or news desk at the Mail on Sunday and check for social media connections. Ms Miller replies to this to explain there are HR implications and that she would speak to you further the

⁵³ PS18106

⁵⁴ COPFS-03988

⁵⁵ COPFS-03988

⁵⁶ COPFS-03988

next day. What did you and Ms Miller discuss following [REDACTED] email? What were the HR implications? Which of [REDACTED] suggestions were taken forward in your investigation? If any were not taken forward, why?

[REDACTED]

85. You emailed the following to Ms Miller at 16:40 on 24 September 2018:-⁵⁸

As Mike indicates, our checking can only really involve interviews of the staff who were aware of the decision and checking of their corporate email and phone logs. With appropriate support from SG, we could do something similar for any staff in Scottish Government who were aware or had been given an indication of the possible outcome. We are unlikely to find anything from these checks.

Why did you think it was unlikely that anything would come from interviews of staff and checks of their corporate email and phone logs? Did you conduct interviews in the investigation? If not, why?

86. Further, in your email to Ms Miller at 16:40 on 24 September 2018,⁵⁹ you state:-

My real concern is that this is not the normal sort of "leak" which generates a leak inquiry. We should really only undertake such an inquiry where we can establish there has been a leak. Nothing about the story allows us to do that – there are only two possible decisions and the family were aware they were coming to a meeting in ten days to be told the decision. It could easily have been a guess on the part of the journalist, written up as a "leak".

If it helps, I'm happy to either make the point direct to the LA or reflect it in advice, whatever works best.

Why were you sure at this point that the source of the Mail on Sunday article was not a leak? Did you take sufficient account of the terms of the Mail on Sunday's article that states "a well-placed source in the justice system"⁶⁰ had provided the information? Why did you mention in your email that the family were aware they were coming to a meeting in ten days? In suggesting that the journalist had guessed the Lord Advocate's decision, are you suggesting that the journalist was lying about their source in the justice system? What was the basis for you being concerned about these two possibilities rather than the concern that there was a leak from within COPFS?

⁵⁷ [REDACTED]
⁵⁸ COPFS-03988

⁵⁹ COPFS-03988

⁶⁰ PS18106 page 1.

87. In Ms Miller's email to you at 16:59 on 24 September 2018⁶¹ she explains that the matter may be raised at "LOB". What is this and why would it be raised? What was discussed the next day and with whom?

88. Please read the Lord Advocate's email to Ms Miller and her response dated 23 and 26 September 2018.⁶² The Lord Advocate explains that "*Subject to your advice... we will need immediately to commence an investigation into this leak*" and Ms Miller states "*At the very least Law Officers will require reassurance that this is being taken seriously by COPFS and that they can have confidence in the discretion of officials and counsel.*"; how were these considerations taken into account in the investigation? Ms Miller refers her and Mr Graham Shields' view that "*there is no leak of documents as such at the moment*" and that you would oversee whether there has been inappropriate sharing of information within COPFS, suggesting that Ms Miller was expecting an investigation into a possible leak of information within COPFS but that there was no suggestion of a leak of documents; do you agree that this was her expectation? To what extent was an investigation of release of information but not of documents in line with the investigation that you were carrying out?

89.

[REDACTED]

63

90. Please read your email to the Lord Advocate dated 7 December 2018.⁶⁴ You refer to a meeting between Mr Bayoh's family and their legal representatives in October 2018. Who attended this meeting and what was discussed? In your email you refer to the Lord Advocate confirming enquiries would be undertaken to establish whether there was any basis to support the family's concern that the article had obtained information from officials in COPFS. What exactly was stated by the Lord Advocate to Mr Bayoh's family in this regard? Would the investigation, as it had progressed to 7 December 2018, be sufficient to identify if there was a leak from COPFS?

91. Further in your email to the Lord Advocate on 7 December 2018,⁶⁵ you set out how the investigation was conducted and why:-

I have now concluded such enquiries as are possible and proportionate in light of the nature of the original article. The enquiries did not amount to a formal "leak inquiry", which could involve interviewing on a formal basis relevant members of staff, because the nature of the Mail on Sunday's reporting could not be shown conclusively to amount to a

⁶¹ COPFS-03988

⁶² COPFS-03571

⁶³ [REDACTED]

⁶⁴ COPFS-03939

⁶⁵ COPFS-03939

“leak” in the sense that confidential documents or detailed information known only to certain people was published. Rather, the essential element of the reporting was the Crown’s purported decision in circumstances where it had to be one of two options - to prosecute or not to prosecute. In those circumstances, we cannot rule out the possibility, based on the reporting alone, that the Mail on Sunday simply “guessed” and claimed to have obtained the information (this has happened before in long running high-profile investigations). In addition, the essence of the decision was clear to officials and ministers in the Scottish Government as well as in COPFS.

The basis for not conducting a formal leak inquiry is given as because confidential documents or detailed information known only to certain people was published. In setting this out to the Lord Advocate, did you give sufficient weight to the claims in the article that a *“well-place source in the justice system”* was the source of the information and that *“The Scottish Mail on Sunday understands the Lord Advocate believes the evidence does not support a prosecution against the officers who restrained Mr Bayoh. His decision is said to be based on two main factors: firstly, the statements of multiple witnesses who confirmed the police acted proportionately; and secondly, forensic evidence that Mr Bayoh’s death was caused by the high levels of illegal drugs found in his system.”*⁶⁶ Why would this information about the decision not be sufficient for there to be concerns about a leak within COPFS? Did anything in the article give you the impression that it was a guess on the part of the journalist? If so, why was this not raised in correspondence with the Lord Advocate? Do you know if the Lord Advocate was aware of the above sections of the Mail on Sunday’s article when considering the issue and the investigation into a possible source within COPFS? If not, should he have been informed of this?

92. Further in your email to the Lord Advocate dated 7 December 2018⁶⁷ you state:

For those reasons, I concluded that it would only be appropriate to interview a member of staff where I could obtain information from COPFS systems which indicated contact with the journalist or newspaper. I have therefore reviewed all COPFS communications data to establish whether COPFS emails or telephones were used to send or receive information to or from the journalist or newspaper during the short window between the decision being taken and the story being printed. There is no evidence of any such contact in the relevant COPFS systems and I am therefore satisfied that the information held in relation to the decision has been processed appropriately and consistent with the Service’s data protection obligations. I do not see any appropriate basis to interview formally the members of staff and Crown Counsel involved in the decision making.

⁶⁶ PS18106 pages 1 and 2.

⁶⁷ COPFS-03939

In reviewing the COPFS communications data, were you still of the opinion in your email to Ms Miller on 24 September 2018⁶⁸ that “*We are unlikely to find anything from these checks.*”? If so, why was this the approach taken to the investigation? Were you satisfied that scrutinising COPFS IT systems would be sufficient to ascertain if a COPFS official had contacted a journalist to leak information? Was this approach sufficient to carry out a complete and thorough investigation into the matter that would reassure Law Officers of the confidence of officials and counsel, as Ms Miller had suggested in her email?⁶⁹ Standing the Lord Advocate’s statement to Mr Bayoh’s family in October 2018 that enquiries would be undertaken to establish whether there was any basis to support their concerns that the source of the information was within COPFS, in your view, was this investigation sufficient to do so?

93. Please read your correspondence with Mr Bayoh’s family’s solicitors in relation to your investigation into whether the source of the information was within COPFS, comprising:

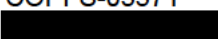
- your letter to Mr Anwar dated 13 December 2018;⁷⁰
- Mr Anwar’s reply to you dated 14 December 2018;⁷¹ and
- your letter to Mr Anwar dated 21 January 2019.⁷²

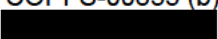
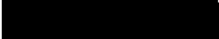
94.  ⁷³  ⁷⁴

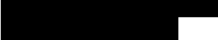
95. In your analysis of the findings of the COPFS investigation did you take into account the Mail on Sunday’s article stating that “*a well-placed source within the justice system*” had provided the information and that “*The Scottish Mail on Sunday understands the Lord Advocate believes the evidence does not support a prosecution against the officers who restrained Mr Bayoh. His decision is said to be based on two main factors: firstly, the statements of multiple witnesses who confirmed the police acted proportionately; and secondly, forensic evidence that Mr Bayoh’s death was caused by the high levels of illegal drugs found in his system*”?⁷⁵

⁶⁸ COPFS-03988

⁶⁹ COPFS-03571

⁷⁰ 
⁷¹ COPFS-00855 (b)

⁷² 
⁷³ 

⁷⁴ 
⁷⁵ PS18106 pages 1 and 2.

96. [REDACTED],⁷⁶ [REDACTED] please note the emails between you, the Lord Advocate and Ms Miller dated 11 and 12 December 2018⁷⁷ on this point. What is your comment on the point in Mr Anwar's letter⁷⁸ that informing Mr Bayoh's family of this was a "red herring"? Was your intention to deflect responsibility for the release of information away from COPFS? Was it normal for COPFS to comment on internal investigations in the Scottish Government, or in any other organisation? Did the Scottish Government ask you to notify Mr Bayoh's family of their internal investigation? With reference to the emails between the Lord Advocate's office and Ms Miller dated 13 December 2018,⁷⁹ why was the letter sent out in your name as Data Protection Officer?
97. In Mr Anwar's letter to you dated 14 December 2018⁸⁰ he states: "*Would it not be more accurate to say that if information was inappropriately released, that it is impossible to exclude how this was done and whether anyone in involved in the Crown's investigation was involved?*" [REDACTED]⁸¹ [REDACTED] At this stage, how were you able to reject the position that it was possible that the leak of the information was within COPFS?
98. With reference to your emails to [REDACTED] on 10 January 2019,⁸² what was discussed in your telephone call with him? Please note your email to the Lord Advocate on 16 January 2019⁸³ where you suggest [REDACTED] had confirmed there was no evidence to suggest there was any direct contact with a journalist or the Mail on Sunday by anyone within the Scottish Government.
99. [REDACTED]⁸⁴ [REDACTED]
100. Without an identified source being provided to Mr Bayoh's family, did you consider how rigorous an enquiry they were expecting within COPFS as a potential source of the information? In Ms Miller's emailed note of the meeting between the Lord Advocate and Mr Bayoh's family, Mr Anwar is said to have requested "*Leak - robust investigation to the leak*", do you think you carried

⁷⁶ [REDACTED]
⁷⁷ COPFS-03940
⁷⁸ COPFS-00855 (b)
⁷⁹ COPFS-03981
⁸⁰ COPFS-00855 (b)
⁸¹ [REDACTED]
⁸² COPFS-03979
⁸³ COPFS-03302
⁸⁴ [REDACTED]

out a robust investigation into the leak? What expectation did you understand the Lord Advocate had given Mr Bayoh's family in his statement to them in the October 2018 meeting? What is your understanding of how Mr Bayoh's family were affected by the publication of the decision not to prosecute the officers and consequently how your actions and decisions in the investigation would be perceived by them? Was this a consideration for the investigation? If it was, please confirm what discussions took place and how you took account of how Mr Bayoh's family would perceive the investigation and its conclusions. How did this factor into your analysis? Was there a concern that COPFS' relationship with Mr Bayoh's family would be adversely affected in the process you adopted in the investigation, or by carrying out an exercise in "ticking the boxes",⁸⁵ as [REDACTED] put it?

101. To what extent was COPFS response, and your involvement in it, consistent with normal practice? Please explain any departures from normal practice and the reasons why this action was taken. Insofar as not covered above, to what extent, if any, was race a factor in your actions and decisions in the investigation into the purported leak to the media of the decision not to prosecute? In the other long running high-profile investigations in which you stated in your email to the Lord Advocate that a journalist guessed the outcome,⁸⁶ insofar as you are aware, did COPFS conduct their investigations in the same manner as in this case?

Learning from other investigations

102. Prior to and during your involvement in the Investigation, what awareness did you have of investigations by the police and/or the CPS into race in England and Wales? What learning did you derive from these investigations? Did anything you learned from these investigations result in any change in approach to your involvement in this case compared with your involvement in prior investigations?
103. Insofar as not covered above, to what extent did you consider the approach of the CPS in cases of deaths in custody or during or following contact with the police in which restraint was used? What were you interested in understanding or learning from the approach of CPS?

Race

104. Do you have any experience of racism being a factor to investigate in an investigation relating to:
- (i) a death in custody or death during or following police contact; or
 - (ii) the actions of on-duty police officers.

If so, please provide details of the year(s) you were involved, how race was a factor, how you investigated the race aspect and the outcome.

⁸⁵ COPFS-03988

⁸⁶ COPFS-03939

105. Insofar as not already covered, to what extent, if any, was Mr Bayoh's race a factor in any of your decisions and actions?
106. Prior to your involvement in the Investigation, in your experience, did COPFS routinely consider the role of race when dealing with a death in custody or death during or following police contact of a person who was not white? Has that position changed between the time you were involved in the Investigation and now?

Training

107. At the time of your involvement in the Investigation, what training had you completed that was relevant for your role in the Investigation? Please provide details of the type of training and explain what you can recall from the session.
108. Insofar as not already covered, what training had you completed by or during the time you were involved in the Investigation in relation to equality and diversity issues? Which aspects of this training, if any, were applicable to your role?
109. What guidance or reference materials in relation to race were you aware of being available to you in the time you were involved in the Investigation? Over the course of your involvement, did you make use of any of these materials?
110. What, if any, training do you consider would have assisted you in your involvement in the Investigation? This may be training you have carried out since, training you are aware of but have not completed or training that is not, as far as you're aware, provided by COPFS.

Records

111. Is there a requirement for you to take contemporaneous notes or any other record of your involvement in an investigation? Is there a requirement to retain them? Are there any forms that you must complete in the course of the Investigation for internal record-keeping?
112. What records did you keep in relation to the Investigation, for example notebooks? Were these retained and archived? To what extent was your record-keeping consistent with normal practice? Please confirm the basis for any departures from normal practice.

Miscellaneous

113. In your experience, was this investigation lengthy? Was it unduly lengthy? What is the reason for the length of time required for the case to be reported to Crown Counsel? Could anything have been done differently to reduce the length of time from Mr Bayoh's death to reporting to Crown Counsel?

114. When did you become aware of the possibility that a public inquiry would be commissioned to examine Sheku Bayoh's death and the Investigation? Was anything done or not done in light of this? Was this a factor in relation to the issue of whether a FAI should take place?
115. Insofar as not already covered, to what extent was your involvement, decisions and actions in the Investigation consistent with normal practice? If there were any deviations from normal practice, please explain your reasoning. In your view was race a factor in any departures from normal practice you have identified?
116. Insofar as not already covered, what significant difficulties or challenges did you encounter during your involvement in the Investigation? Would any changes to practice or procedure would have assisted you in overcoming these difficulties or challenges? To what extent were these difficulties or challenges normal or expected in your role? To what extent was race a factor in these difficulties or challenges?
117. In what circumstances, if any, would COPFS share the findings of (i) a PIRC investigation including the PIRC Report and (ii) the Crown Precognition with Police Scotland? Do COPFS have a role in advising or suggesting if misconduct proceedings should be taken forward by Police Scotland following an investigation by COPFS? Do you consider any of your findings in the course of the Investigation, or the findings of PIRC, would be of assistance to Police Scotland if they were shared? Did you or, insofar as you're aware, any colleague share these findings with Police Scotland? Did anyone from Police Scotland or SPA request your findings for the purposes of considering disciplinary action?
118. Please state the following 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."
119. Please sign and date your statement.

Undernoted list of correspondence comprising instruction to PIRC

COPFS-02539	5 May 2015
COPFS-02833(a)	11 May 2015
COPFS-02769 (a)	18 May 2015
COPFS-02769 (b)	18 May 2015
COPFS-02532	1 June 2015
COPFS-04010 (a)	12 June 2015
COPFS-04010 (a)	12 June 2015
PIRC-02759	2 July 2015
COPFS-02768(a)	24 August 2015
COPFS-02557	7 September 2015

COPFS-02556	5 October 2015
COPFS-02547	10 November 2015
COPFS-02546	19 November 2015
COPFS-02562	13 January 2016 ("2015" appears to be a typographical error)
COPFS-02565	29 November 2016
PIRC-01914	5 October 2017
	22 November 2017
COPFS-03744	4 December 2017
COPFS-02781	11 December 2017
COPFS-03820	14 December 2017
PIRC-01951	14 December 2017
PIRC-01953	3 January 2018