

Assistant Solicitor to the Inquiry

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Mr Martin Graves
CARMS

By email only: [REDACTED]

29 September 2023

Dear Mr Graves

**SHEKU BAYOH PUBLIC INQUIRY
EXPERT REPORT – POLICE TRAINING**

We refer to our recent correspondence in respect of the above matter.

Thank you for agreeing to accept these instructions. We would be grateful if you could prepare a full written report in accordance with our instructions below. We have enclosed an appendix listing productions and documents to assist you in the preparation of your expert report.

Background and Context

The Sheku Bayoh Public Inquiry was set up to examine the events surrounding the death of Sheku Bayoh, who died on 3rd May 2015, after being restrained by police officers in the street in Kirkcaldy. The Inquiry is chaired by the Right Honourable Lord Bracadale (Alastair Campbell).

The remit of the Inquiry is to establish the circumstances of the death of Sheku Bayoh; to assess the post incident management process and subsequent investigation; and to establish the extent (if any) to which the events leading up to and following Sheku Bayoh's death, in particular the actions of the officers involved, were affected by his actual or perceived race. The full terms of reference for the Inquiry can be found on the Inquiry website [here](#).

There will be separate evidential hearings to examine the terms of reference, where witnesses will be called to give evidence. After the hearings are completed, the Chair to the Inquiry will consider all of the evidence and publish a report, laying out his findings, conclusions and recommendations.

The Inquiry is scheduled to sit from 21 November to 8 December 2023 to hear evidence in relation to police training. There will then be a further hearing between 16 April to 3 May where your report will form part of the evidence being considered by the Chair. You may be required to attend the hearing (date to be confirmed) in person to give oral evidence before the Chair. Your report will be disclosed to the legal representatives of Core Participants

(individuals and organisations who have a significant interest in the Inquiry) before you give evidence. Your report will be made available to the public via the Inquiry website after you have given evidence. If you give evidence, you will be examined by Counsel to the Inquiry. The legal representatives of Core Participants have no automatic right to ask questions but will be provided with an opportunity to make applications to explore further lines of questioning in addition to your examination by Counsel to the Inquiry.

Confidentiality

All evidence, documents and information provided to you by the Inquiry to undertake your report is confidential, in accordance with our Confidentiality Agreement. Accordingly, we have enclosed our Confidentiality Agreement for review. A copy will be provided over DocuSign for signature.

Documents and Productions

We attach as an appendix to this letter a list of the productions to be made available to you to assist you in the preparation of your report.

All documents referred to within the appendix shall be either shared securely via the Inquiry's sharing platform, Objective Connect or will be available on the Inquiry website and a link to the document will be provided.

Instructions

The Inquiry's terms of reference require it to "establish ... any defects in ... training ... which **contributed** to the death", and to "make recommendations ... covering ... improvements to ... training ... which might realistically prevent other deaths in similar circumstances."

As such, the Chair to the Inquiry will require to determine whether the officers' training was **defective** and, if so, whether those defects **contributed** to SB's death. In the event that he answers both questions in the affirmative, he will require to make **recommendations** in relation to training, aimed at preventing deaths in similar circumstances in the future.

"Defects in training"

Please describe the nature and scope of the training on the topics outlined below as at 3 May 2015 and to date and provide your critical assessment of whether the training delivered at these dates was fit for purpose at the time of its delivery:

- Who was in charge in relation to a response team attending a knife incident
- Officers' Communications with ACR including requirement for feedback when attending a grade 1 call.
- Carrying out a dynamic risk assessment
- Identification of subjects who are (i) intoxicated due to drink/drugs; (ii) experiencing mental health crisis; or (iii) experiencing ABD or ED; and actions to be taken upon identification of such
- Tactical Options for approaching an individual reported to be on a public road carrying a knife, including:
 - (i) Rendezvous Point (RVP)
 - (ii) Observe, Wait, Feedback
 - (iii) De-escalation

- (iv) Verbal dominance (also known as a 'Hard Stop'¹) and identifying the most appropriate option to adopt in any given circumstances.
- The principles of preclusion, justification, and necessity in relation to use of force.
- Training on Profiled Offender Behaviour and the Reasonable Officer Response. This should include (but is not necessarily exclusive to) the circumstances in which the following are a reasonable officer response:
 - (1) the drawing of CS spray or PAVA spray and (2) the use of CS spray and use of PAVA spray, if different.
 - The use of baton(s)
 - Restraint
 - The use of handcuffs
 - The use of leg restraints
- Restraint in so far as it relates to the application of weight and/or pressure applied to the subject during restraint; number of officers involved; length of restraint; the use of a safety officer/officer to monitor breathing of the subject; any risk to life caused by restraint.

Deaths following/during police contact post-incident management

The Inquiry's terms of reference require it also to examine "the post-incident management process and the investigation [...] including: (i) the effectiveness of procedures for gathering and analysing information, (ii) the securing and preserving of evidence, (iii) the roles and responsibilities of those involved, (iv) liaison with the family of the deceased and (v) compliance with any relevant Convention rights; and make recommendations, if any, for the future in respect of these matters".

With that in mind, please also consider what training was available to officers in relation to the investigation of a death following or during police contact including seizure and search of loci, and recovery of evidence as at May 2015.

General Considerations

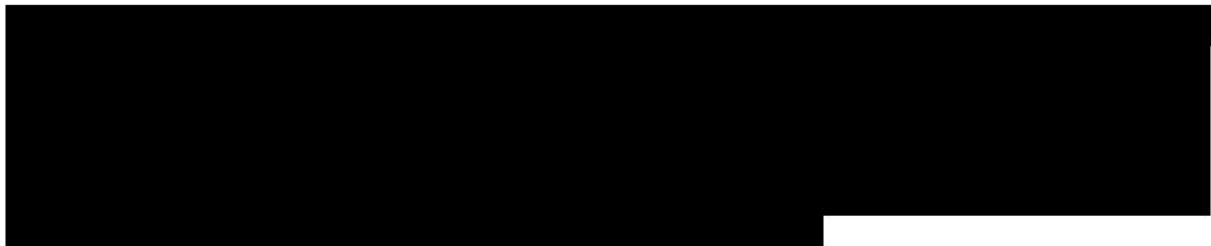
Describe the nature and scope of the training delivered above, under particular reference to the relevant Manuals; the PowerPoint presentations; SOPs; and any other documentation provided by the Inquiry (see attached appendix).

In relation to each topic, we would be grateful if you could approach your task by considering the following matters:

- whether there was any difference between the training delivered by Police Scotland as noted above as at 3 May 2015; and the training delivered by the College of Policing or other appropriate training organisations at that time. If so, what were the differences and how could such different training impact on the actions of reasonable officers?
- whether there was any difference between the training delivered by Police Scotland as noted above as at the present date; and the training delivered by the College of Policing or other appropriate training organisations at that time. If so, what are these differences and how could such different training impact on the actions of reasonable officers?

¹ It is recognised this term has associations with armed policing. However, this term has been used in evidence before the Inquiry to describe a tactical approach of using dominance and strong verbal commands by unarmed response officers. The term will be used in that latter context only.

- Whether the content of the training was subject to periodic review and whether relevant expertise sought from e.g. College of Policing or other appropriate training organisations; medical practitioners; manufacturers of equipment;
- Whether the content of training as noted above was reviewed in light of report arising from relevant significant incidents such as FAIs; Inquests or Reviews.
- Whether and what training was mandatory or advisory; how competency was assessed; the manner of delivery of training (presentations; workshops; scenario-based training; and whether in person or online); and whether the mode of delivery was considered and reviewed; the extent to which Police Scotland considered whether training was being effectively delivered to officers.
- Whether any defects in training identified contributed to Mr Bayoh's death is a matter for the Chair to the Inquiry. In the event that you identify defects in the training delivered by Police Scotland in 2015, we would ask you to consider what difference it would have made (on balance of probabilities) had the training been fit for purpose *and* the attending officers had acted in accordance with that training.
- Whilst recommendations are for the Chair alone, we invite your views on whether any defects in the training delivered in 2015 as identified by you have been remedied in the intervening years, or whether you consider that such defects remain. Where you identified defects in the 2015 training regime, we would be grateful for your critical assessment of the training currently delivered in relation to the topics in respect of which defects were noted; and your observations as to whether current training is in keeping with, or different from, that delivered by the College of Policing.
- Please identify for the Chair any other criticisms you are able to identify, if any, in relation to training to date in relation to the topics noted above; which may assist the Chair in considering recommendations for the future.



I would be grateful if you could acknowledge safe receipt of these instructions.

Yours sincerely


Assistant Solicitor