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| BRIEFING PAPER FOR THE ATTENTION OF DCC FIONA TAYLOR | | | |
| For Information | | | |
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| Date Created | 12 September 2018 | Telephone | [REDACTED] |
| Attachments: Specification of Documents | | | |

DEATH OF SHEKU BAYOH - 3 MAY 2015

1 Purpose

- 1.1 The purpose of this briefing paper is to provide DCC Taylor with an update regarding the death of Sheku Bayoh on 3 May 2015, the associated Crown directed investigation by the Police Investigations and Review Commissioner (PIRC), subsequent Complaints about the Police and the recent intimation of civil proceedings.
- 1.2 This paper will be restricted to aspects associated with the Professional Standards Department (PSD) and it is understood Fife Division will provide a similar paper from an operational and staffing perspective.

2 Background

- 2.1 About 0715 hours on Sunday 3 May 2015, Police Scotland received several reports that a male (deceased) was in the area of Hayfield Road, Kirkcaldy in possession of large knife. Witnesses referred to deceased kicking at and chasing cars.
- 2.2 Nine officers were dispatched to the area and engaged with deceased, after which a physical confrontation ensued. This resulted in deceased being restrained on the ground, handcuffed and leg restraints applied.
- 2.3 Whilst being restrained, deceased became unresponsive and officers commenced CPR after noting a lack of vital signs. The Scottish Ambulance Service attended and conveyed deceased to Victoria Hospital, Kirkcaldy where further medical assistance was rendered.
- 2.4 About 0904 hours life was pronounced life extinct.

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- 2.5 Due to the nature of the incident, the on call PSD Officer referred the matter to the Scottish Fatalities Investigation Unit (SFIU), Crown Office and Procurator Fiscal Service (COPFS) who in turn instructed that PIRC conduct an investigation in terms of Section 33A of the Police, Public Order and Criminal Justice (Scotland) Act 2006.
- 2.6 The Police Scotland response was overseen initially by Fife Division and thereafter the on-call Detective Superintendent. Initial actions were agreed and progressed in conjunction with the on-call PIRC Senior Investigator. A MIT response including HOLMES was initiated and on 4 May 2015, a handover was agreed enabling PIRC to conduct an independent investigation.
- 2.7 Police Scotland commenced a Gold structure in response to the incident and the inaugural meeting on 3 May 2015 was chaired by ACC Nicolson (retired).
- 2.8 On 5 May 2015, COPFS formally instructed PIRC to investigate -
- (1) *The circumstances leading up to the incident, namely Mr Bayoh's movements late on Saturday 2 May and during the early hours of Sunday 3 May, prior the contact with police, including his attendance at a house at [REDACTED], and events following his attendance there*
 - (2) *The incident in which the police became involved with Mr Bayoh shortly after 7am on 3 May.*

3 PIRC Investigation

- 3.1 On 12 June 2015, following concerns from deceased's family, COPFS directed that PIRC also investigate -
- (1) *Allegations by the family that they were provided with misleading and erroneous information concerning the death of Mr Bayoh to family members and a concern as to why they were provided with that information*
 - (2) *Concerns that the initial police investigations and attempts to secure evidence were not thorough meaning that crucial evidence was lost to the enquiry*
 - (3) *There was inappropriate conferring between police officers.*
- 3.2 On 19 October 2015, following claims made by estranged family members and media reporting regarding Constable Alan Paton (one of the initial attending officers) having previously [REDACTED] and expressed racist views, the Lord Advocate instructed PIRC to broaden their investigation to -
- Examine all allegations, criminal complaints or misconduct complaints of racism or racist behaviour against all officers who served with the former Fife Constabulary or who are or have served with Fife (P) Division of Police Scotland, within the last 10 years, to assess and determine whether racism may have had a bearing on the approach of Police Scotland and its staff toward dealing with Sheku Bayoh, and the Police Scotland investigation in the immediate aftermath of Mr Bayoh's death.*

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- 3.3 The PIRC investigation, known as Operation Quoich, has continued since May 2015 with the provision of a large number of documents and other information, including the previous Misconduct history of the attending officers. This has largely been facilitated through PSD acting as general single point of contact.
- 3.4 During December 2017, PIRC advised they wished, at the direction of COPFS, to re-interview a number of officers as witnesses. This was facilitated during January 2018 and included senior officers, OST instructors as well as those involved in the initial response.
- 3.5 In addition they sought further information and audits of the STORM incidents associated with the incident on 3 May 2015.
- 3.6 There have been no further recent requests for additional information from PIRC and PSD understand the matter is now with Crown for a decision.
- 3.7 Police Scotland are not sighted on the detail or extent of any reports submitted by PIRC to COPFS.

4 Complaints about the Police

- 4.1 [REDACTED]
- 4.2 [REDACTED]
- 4.3 [REDACTED]
- 4.4 [REDACTED]
- 4.5 [REDACTED]
- 4.6 [REDACTED]

4.7 [REDACTED]

4.8 [REDACTED]

4.9 [REDACTED]

4.10 [REDACTED]

4.11 [REDACTED]

4.12 [REDACTED]

4.13 [REDACTED]

4.14 [REDACTED]

4.15 [REDACTED]

5 Civil Proceedings

5.1 On 1 August 2018, Police Scotland were advised that six members of deceased's family had raised a civil action against the Force by means of a writ detailing the Specification of Documents.

5.2 This document contained 15 requests relating to the incident on 3 May 2015 and the 9 officers who attended, along with training materials and associated Police held documentation between 3 May 2012 and the date of death (see attached).

5.3 Furthermore, the writ also included a request for any records, notes, policy documents and other documents to show all communication by Police Scotland with each of the pursuers.

5.4 [REDACTED]

5.5 Despite regular contact and the ongoing provision of a considerable amount of material, the pursuers sought a Commission which is currently scheduled for 1100 hours on Friday 14 September 2018 at Edinburgh.

5.6 [REDACTED]

5.7 [REDACTED]

5.8 As is stands, the majority of the specification has been addressed with only minimal clarification awaited from Forensic Services and in relation to correspondence with deceased's family.

5.9 Should it proceed, Chief Inspector McCutcheon will be cited to attend the Commission on 14 September 2018.

6 Conclusion

6.1 The incident was referred by Police Scotland to the appropriate authorities timeously on 3 May 2015 and since then, the Force has supported the ongoing PIRC investigation as necessary.

6.2 Police Scotland are however largely unsighted on the conclusions of PIRC and as alluded to earlier, the content of any reports submitted to COPFS.