

The logo for the Sheku Bayoh Inquiry, featuring the words "SHEKU BAYOH INQUIRY" in white, bold, sans-serif capital letters stacked vertically on a solid purple square background.

**SHEKU
BAYOH
INQUIRY**

The Sheku Bayoh Public Inquiry

Supplementary Witness Statement

Calum Steele

**Taken by [REDACTED] at 18 Woodside Place, Glasgow, G3 7QF
on 28 February 2024**

Witness details and professional background

1. My name is Calum Steele. My year of birth is 1973. My contact details are known to the Inquiry.
2. In June 2008 I was elected as General Secretary of the Scottish Police Federation ("SPF"). I took office in September 2008, and I served all the way through until I retired in February 2023, it was just under 15 years. This was a full-time post. As it relates to my rank within Police Scotland, I was a Police Constable and I had 30 years police service.
3. I previously gave a statement to the Inquiry on 17 October 2023 (SBPI-00422).

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Responsibility for Media engagement within the SPF

4. In my previous statement, I explained that I had responsibility for the operational activities of the SPF. I have been asked whether operational activities included responsibility for the drafting of media releases or whether it was shared with the Chairman. Not in all instances. The responsibilities of the General Secretary and Chair are obviously split down different portfolios, if you like, for simplicity's description. Largely, but not exclusively, anything operational or policy related would be within the ambit of the General Secretary; anything people and reputational, just for being massively simplistic, would have been the Chair. So the relationship building, the engagement with movers and shakers, if you like, those that are for the Chair. Occasionally though aspects of policy, would fall to the Chair, just simply through volume of work.
5. For example, the Chair had responsibility for engagement on force firearms policy. So, in such circumstances, the knowledge would be utilised from whoever had the skill or knowledge. Similarly, if there was an issue, for example, health and safety, we would utilise the person with the best knowledge on health and safety at that moment in time.
6. So, whilst on a large number of occasions, if there were press releases, they would have been drafted by me – and in respect of the death of Sheku Bayoh, those press releases, I would expect, in almost all instances, would have been me that gave them the final sign-off. But not in all instances, as a general policy, that wouldn't have been true.
7. I have been asked to explain how media releases were drafted generally by the SPF - whether there was a procedure for the drafting and approval of such releases. Depending on the topic, the issues that wished to be discussed or raised or highlighted would be a subject of discussion. And that could

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probably be if we're all together in the room, in person. If not, then by messaging through whatever system people had, whether it was Telegram, WhatsApp, iMessage or any of the above. Thereafter, once the bones of what was going to be said would be agreed, then somebody would draft that in. That would either be myself or my colleague at the Chair's office if he had the portfolio responsibility. Thereafter, it would be circulated around, usually for a proof check and see if there's any glaring omissions. Thereafter, if the decision was taken to send it on, then it would be sent out.

8. I have been directed to my previous Inquiry statement (SBPI-00422) at paragraph 104, which states *"I was by far and away the most proactive commentator on not the death itself, but on the issues that were being examined."* I have been asked about my use of the term "proactive commentator", and whether I meant on social media or the media more widely. It was more widely, but I think it's important that the issue of commentator is in itself understood. It was almost always a reactive commentator. I think I can say with a high degree of certainty it was never a proactive commentary. I believe that almost all, if not all of my comments on the issues surrounding the death of Mr Bayoh were in direct response to enquiries that were made of me or in response to something that was said by the family solicitor, Mr Anwar.
9. I have been asked to clarify when I say enquiries made of me, whether I mean media outlets contacting me for comment. Yes. The most obvious example of that, and indeed probably the most pertinent, is the very first press release by the SPF that was made after the death of Mr Bayoh (SPF-00010(a)).
10. I have been asked whether there are codes of conduct that officer bearers or representatives of the SPF are expected to adhere to. The standards of behaviour for police officers are there; they've changed over time from being schedules of activity to standards of professional behaviour. In terms of the


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organisation's own structure, there are procedures within the SPF now, or at least there were – I would be surprised if they've changed – where any member can raise concerns about either the conduct or the performance of a representative. So, in that broad sense, yes; but there is nothing written down beyond the provisions that exist for individual police officers.

11. I think, actually, on the issue of social media, there was something. I can't remember what it said, but it would have been about making sure that the message was standard, universal; that it wasn't freewheeling; that, if individuals were speaking on their own behalf, it was clear it was their own behalf. I mean, one of the issues that I had as an individual was that there was no distinguishing between me and the whole. For example, even if I was to say, "What a lovely day for a game of football," people would say, "The General Secretary of the Scottish Police Federation is saying it's a lovely day for a game of football." And much the same way as, you know, there is no distinguishing from Aamer Anwar as a lawyer and Aamer Anwar as a "hashtag," human rights campaigner, as he's often vouched. So sometimes you wear the role that you perform, whether you want it or whether you don't.
12. I have been referred to my first Inquiry statement (SBPI-00422) at paragraph 13, which states *"The access to legal advice or the potential to access legal advice is dependent on being a paying member into the SPF"* and further on at paragraphs 61 and 62 that: *"The Scottish Police Federation never provides legal advice ... not under any circumstances to be provided because we're not qualified, we're not lawyers, but we provide the means to access legal advice."*
13. I have been asked whether it is essentially that the SPF fund the provision of legal advice and a solicitor is appointed from a panel of solicitors, approved by the SPF, to the officer seeking legal advice. Yes, that's broadly right. There are occasions where that cannot apply, but as a general day-to-day response,

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that's correct. On the occasions where that direct relationship does not apply, where an issue is identified, and the application is invited rather than the application being made and then after a process. I provide examples of that type of action in my statement (SBPI-00422) at paragraph 17.

14. I have been asked about the process for the initial funding of legal advice to the nine officers present at Hayfield Road. This would have been a case that it becomes that direct solicitor/client relationship, but there is that very brief moment between an incident and basically the formalisation of the correspondence where, given the nature of the activity, for example a death in custody, we don't sit back and wait for a member who is in a traumatic state of mind to go through the process of filling out an application form and all the rest of it, and then appointing a solicitor. Other occasions can arise when members are in custody, which happens infrequently but with enough regularity that there have to have to be processes in place where, in such circumstances, there can be direct appointment by the SPF of a legal representative to deal with that immediate but short gap before we get to the formalisation of the process.
15. I have been directed to the SPF position statement (SBPI-00369), at page 7 which includes the "legal scheme 2015" guidance. At page 10 in the last paragraph, this states *"It is vitally important that officers receive legal advice or assistance from the Federation to keep in regular contact with their Joint Branch Board Secretary so that progress can be monitored."* I have been asked how that "regular contact" worked and the purpose of this.
16. That terminology is somewhat dated because joint branch board secretaries only existed prior to 2013. So for the term joint branch board secretary, you've got to replace it with the terminology used in 2015, which was the area secretary. There are a number of reasons

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for this requirement. When we deal with or when our members are engaging with the SPF, they can be dealing with them on multiple levels at the same time. So we can have members that have been off sick for whatever reason, that are simultaneously receiving legal advice for something that may or may not have related to their absence. We can have members that are in a similar situation that are raising legal proceedings on the back of a health and safety issue.

17. One of the things that we're absolutely clear on is we never ever breach privilege; we never ever seek to engage in privileged conversations between the member and the lawyer. But if, for example, there is an ongoing legal process or there's an ongoing process, but the officer, whilst this is going on, is fast approaching the point of going on to half pay or no pay, the broad knowledge of where, in particular, the legal process is, in terms of, "Well, I'm just waiting to lodge papers," or whatever it might be, is crucial to the SPF representative being able to make informed representation to the force about their pay status.

18. The same can be true, to elaborate as a further example, if there is a potential for legal action being raised against the force for a health and safety issue, the force usually will clam up at the point of legal action being taken, and often frustrate the legal rights of safety representatives to be able to undertake their investigations, and those investigations also include the free exchange or free supply of information. So it's just to make sure that the representative is as aware as it can be, with the information that they need to be able to do their job, but never to be getting to the other side of it.

19. There's a very clear reason for that. The duty on a police officer is statutorily based. Every single member of the SPF in an elected

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position absolutely knows that their duty is as a police officer, and we can argue with the merits of this, rightly or wrongly. So if a member shares with a representative of the SPF information that they had discussed with a lawyer that was privileged, that might point to some form of, for example, criminality, there is a duty on the SPF representative because of your obligations to the investigation of crime to respond to that and to deal with it.

20. As such, we are always very clear that there are conversations you can have with your lawyer that you cannot have with the SPF representatives. It's not our job as representatives to determine your guilt or innocence. In fact, to some extent, it's actually not the lawyer's point either. It's just a different form of representation; but one thing that is clear is that, if we have information that may point to your guilt rather than your innocence, we have a duty to act upon that and report that to the service.

21. There are other instances as well where we can have a difference in the rank of people that we're representing involved in the same incident that are involved in conflict. The most obvious extremes of our rank coverage are from constable to chief inspector. The constable and chief inspector can be in conflict. We can't know the legal position or the legal status of what they're discussing with lawyers because that then changes how we deal with the individuals across that rank accordingly.

22. In relation to the reference to that officers "keep in contact", I have been asked how that works in practice and whether it is the officer or their legal presentative that does that in practice. More often than not, it is the solicitor. As I explained, whilst the wording is dated, the principle applies. The reason that the reference to the joint branch

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board secretary exists is, when that guidance was drafted, the SPF was a much more fragmented organisation, and there was the potential for the speed of information between a member who's just come in from their lawyer's office to report back "I need to do X, Y, Z or I'm going to be off for, for example, a longer period of time," or whatever, for that information to be responded to much more quickly than the solicitor getting back and typing up his or her notes, preparing a file note, and then getting it onto the SPF. So, I suppose the shift has probably happened over time where it could have been largely 50/50. In earlier years, and as the organisation – as in the service – changed and the concentration of effort changed, it became much more solicitor orientated.

23. Another aspect that's important to be understood is that sometimes a member can be dissatisfied with his solicitor, and it's important that, if that dissatisfaction exists, that that is communicated to the SPF, so that the SPF can take in the members' wishes, whilst considering how much work has been undertaken in respect of the particular case at that particular point in time. Whether the SPF needs to say, "what aspects are you unsatisfied with? Is it a clash of personalities or what is it?", and take a view as to whether there was merit in pursuing with the same lawyer or whether there was a requirement to move on to someone else.
24. I have been referred to the SPF press release from 14 May 2015 (SPF-00010(a)). I have been asked whether I drafted this release. I cannot be 100 per cent certain but it is likely this was drafted by me following consultation with Peter Watson and [REDACTED] at Media House. The SPF use of external media consultants ebbs and flows depending on issues. At various different points in time, we have had standard retaining contractual arrangements with a number of different

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[REDACTED]

media bodies over the years. Given the very obvious prominence that was given to the death of Mr Bayoh from the get-go, it seemed apt at that moment in time that it might be better to engage with an external media provider or PR agents I think is a more accurate description, and on that occasion we utilised Media House who were not unknown to the SPF, having utilised their services at different points in time over the years.

25. I have been asked to confirm whether a press release drafted by a PR agent like Media House would be sent to the SPF for approval. Yes. I have been asked whether this press release was approved by me or another person. I am confident that I did approve it.
26. I have been asked if I recall when the press release was drafted? Specifically, at what time it was drafted – whether on the 14th of May or it was drafted in preparation, knowing that the press conference was taking place. No, we had no knowledge the press conference was taking place, absolutely none. I can't recall the time, but a journalist, I think it might have been [REDACTED], now with the Herald Newspaper, but at that moment in time, I think, worked for The National newspaper. I think it was him, but I can't be 100 per cent certain. He contacted me from that press conference, and it was in response to the information I had received from him, but I would have spoken to probably [REDACTED] at Media House and others within the SPF.
27. The obvious thing in terms of answering the question, it couldn't have been done in response or in anticipation of what Aamer Anwar was going to say, because it makes reference to what Aamer Anwar did say. So it was retrospective rather than prospective.

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[REDACTED]

28. I have been asked if I can recall how the press release on this occasion was instructed, what information was provided. On this specific incident, I can't recall the exact mechanics, but I would be surprised if they didn't go along the lines of, there would have been probably a bilateral or a trilateral conversation. I would imagine my colleagues in the office just down the road would have been involved, and thereafter, conversations between Peter Watson, who was at that time the lawyer appointed for the officers, and Media House would have taken place. And the broad, generic information that was either shared by the journalist or had, by that time, been subject to general news commentary would have been known. But the statement itself was in response to what was said, not in anticipation of what might be said.
29. I have been asked about the content of the SPF press release on 14 May 2015 (SPF-0010(a)):

"Speaking in response to the comments made at the press conference by representatives of the family for Sheku Bayou [sic] this morning, Brian Docherty, Chairman of the Scottish Police Federation said;

'The Scottish Police Federation (SPF) recognises that the family of Sheku Bayoh is mourning his death and that this is a painful process. The SPF does not wish to add to that pain by making unhelpful comments to the press. We are saddened that his legal representatives appear not to take the same approach.

We are also saddened that his legal representatives are inferring police officers should not have the same legal protections as any other member of the public.

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A petit female police officer responding to a call of a man brandishing a knife was subject to a violent and unprovoked attack by a large male. The officer believed she was going to die as a result of this assault.

I very much regret that Mr Bayoh sadly lost his own life following this incident but innuendo and speculation whilst the independent investigation is ongoing adds nothing other than to the pain and grief of the family.

We make no apology for standing up for the rights of police officers and we continue to extend to the family and friends of Mr Bayou our sincere condolences.”

30. I have been asked where the information about the female police officer being subject to “a violent and unprovoked attack by a large male” and that the officer believed she was going to die as a result of this assault, came from. I had no direct knowledge of the incident but given the multilateral discussions taking place between myself, Peter Watson, and [REDACTED], I imagine that precise knowledge came from the lawyer. There was however a general awareness that Nicole Short had been subject to an extremely violent, unprovoked assault but I had no direct knowledge of the impact it had on her.

31. I have been asked whether I would consider the content of this particular press statement as commenting on a live investigation. No, absolutely not. The SPF was representing the interest of our members, who were very quickly being maligned as a result of the incident.

32. It is put to me that the officers had not provided statements at this stage. The information that the petite female officer believed that she was going to die was not known to PIRC and presumably came from

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[REDACTED]

Nicole Short's statement given to John Sallens where she said that she thought she was going to be murdered. I have been asked whether I considered it appropriate for that information to be provided to the media by the SPF, in these circumstances. I am not responsible for the inefficiency of the PIRC, and its inability to communicate the status of the officers. I am more than satisfied that any information which may have been shared by Peter Watson were done after full and careful consideration by him on what's appropriate to be shared publicly and what's not. In any event I have no knowledge of what was in any statement secured by John Sallens. I didn't even know he was engaged. As to whether it was appropriate, I believe it was. There was not an issue of sub judice to consider. The officers were being maligned by insinuation. The police service was mute on the violence faced by the attending officers, and it was obvious there was a risk to future public police relationships if the insinuations were not addressed. The information was both factual, and as we now know, although it was clear to the SPF at the time, highly relevant.

33. The issue here is that from the get-go, this was not any other death in custody, which was obvious. And it was obvious principally because Aamer Anwar made it not about any other death in custody, and the early inference that he was presenting was that police officers had killed Mr Bayoh because of the colour of his skin. So that was very obviously something that the SPF had to deal with.
34. Now, we have members that were very clearly in a difficult spotlight. The reality of it was that the identity of the officers was going to be coming in at some point in time, and we had to deal with the inevitable, or anticipate the inevitable consequences for them in respect of that. At that point in time, whilst there was obviously an investigation into

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the death, there weren't any criminal proceedings live, there weren't misconduct proceedings live. There was the potential for both, and I suppose, to some extent, much like the officers on duty, at the point you get a suspect then the rules change.

35. In terms of Mr Anwar inferring Mr Bayoh was killed by the police because of the colour of his skin at this stage, it has been pointed out this press release was issued about 11 days after Mr Bayoh has died. I have been asked whether I can recall anything that I read in press release or any commentary from any other source that led me to that conclusion. Well, in those 11 days, I couldn't point to anything specific, but the general commentary from Mr Anwar's very early involvement was an inference that the colour of Mr Bayoh's skin was a contributing factor in his death. Although the example I give here came some time after the death, it is blatantly obvious Mr Anwar was making such an inference. Around the time of the Black Lives Matters protests which followed the widely regarded racially motivated murder of George Floyd in Minniapolis, Mr Anwar drew a direct parallel by tweeting to the effect that Sheku Bayoh had also stated "I can't breathe." I can think of no plausible explanation for his making such a highly inflammatory comment were he not seeking to infer the death of Mr Bayoh was anything other than racially motivated.
36. Now, that permeated from a very early stage all the way through, in fact, I dare say, to this very day, and whilst this is going to move on several days, weeks, months, possibly even years, to the point where, I think, at various different points in time, he inferred that the restraint of Mr Bayoh involved, I think at one point, as many as 13 officers, and then he reduced it down or refined it down to 11 and 9 and 7 and 6 or whatever we got to.

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37. Now, he knows what he's doing when he's saying that, he's leaving information out, the suggestion being that 13 officers pile on top of Mr Bayoh because he was black. The insidious nature of racism and allegations of racism in the police are such that those kind of inferences should not be bandied out because, regardless of the generalised nature of the concerns that might exist, at their core were a small number of individuals who were highly traumatised because an incident that they did not choose to attend to but they were sent to, that they had no knowledge of at the start of their shift that they would be dealing with, ended up with somebody dead and potentially them looking at some form of murder allegation, some form of culpable homicide allegation. At the very least, there was always going to be a fatal accident inquiry, because of the statutory nature of the death while in police contact, potential misconduct, huge psychological harm, potentially losing their career, potential imprisonment, a whole variety of emotions and complexities that were going through their minds. The inference was there from the very earliest moments of Mr Anwar's involvement.
38. I have been asked about the language of the press release referring to the petite female police officer and the violent attack by a large male. It has been explained that the Inquiry has it is a stereotype of black men that they are larger and more threatening than they are in reality. Also, it has been explained that the Inquiry has also heard evidence that Sheku Bayoh was 5 ft 10. I have been asked whether, on reflection now, I have any concerns about the language used here. Both of them are true. Nicole Short is petite. In comparison to Nicole Short, Sheku Bayoh is a large man. I haven't been following the Inquiry in any great detail. I saw some of the earlier testimony and the argument about the presentation of black men as being particularly large, and I have to say that that's something that's genuinely new to

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me. The issue of descriptors in Scottish vernacular is common, big man, wee man, all the rest of it. It exists regardless. The strength of an individual is also something, whether he had superhuman strength, and I know that that's not something that the SPF commented on, but it has featured in the Inquiry.

39. When I was a young constable in Inverness, we were dispatched to a call of a man refusing to pay a taxi fare. The long and short of the story is that it took six or seven police officers and two members of the public to restrain a man who was probably about 5 ft 6. He was a woodcutter, and he genuinely had superhuman strength. He was throwing people around like rag dolls. So, the notion that there is a predisposition to describing black people as big when, in reality, the vast majority of interactions that members of the police service have are with white individuals, was not something that was in my thinking and approval in any way, shape or form. They are two factual statements. Nicole Short was small, was petite. In comparison to her, Sheku Bayoh was a large man.
40. I have now been asked about a further press release from the SPF dated 2 June (SPF-00019). This is an email from me dated 2 June 2015 replying "agree" in response to an email from [REDACTED] at Media House also dated 2 June 2015 saying "for approval" and containing a media release on behalf of the Scottish Police Federation. I have been asked to confirm that I am approving this media release. Yes. Can I be clear though, in terms of that, I approved the press statement in respect of the SPF commentary. I've got no veto over what Peter Watson wants to say. I have been asked if this press release is effectively a joint media release between PBW Law and the SPF. Yes.

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41. The press release states: *"The legal adviser to the Scottish Police Federation has responded to criticism levelled at the organisation by Aamer Anwar, the lawyer representing the family of Sheku Bayoh. Professor Peter Watson of PBW Law said: 'The comments made by those representing the family of the deceased continue to promote a completely inaccurate and misleading account. The officer injured remains off work, has had several hospital visits and is now in rehabilitation. An examination by a leading Consultant confirms her injuries were significant. The injuries have been documented and photographed. The officers involved have never refused to provide statements. It was agreed at the outset with PIRC that they would revert to us when they wanted statements and when they were clear on the basis that statements were to be given. PIRC emailed me this morning at 10:46am asking for our assistance to organise interviews and we answered at 11:29am confirming we would be pleased to assist. Those are the facts.'* Brian Docherty, Chairman of the Scottish Police Federation, said: *'Mr Anwar can try to throw whatever mud he wishes but the fact remains that a petite female police officer was violently assaulted by a large male and believed she was going to die as a consequence. In directing increasingly hyperbolic, inaccurate and bizarre rhetoric at the Scottish Police Federation, one could be mistaken for believing that Mr Anwar being at the centre of attention appears to be of greater importance than allowing the investigation to proceed without interference.'"*
42. I have been asked whether it's an unusual occurrence for the SPF to directly criticise a professional person in the media? No. We don't set out to do it, it's not a daily occurrence, but if an individual takes a view, strident view or otherwise of the SPF that's blatantly wrong, the SPF is not going to sit back and take it. So, no is the answer. I know Aamer Anwar very well. I like him on a personal level. We have been in each

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other's company on numerous occasions. We've shared a beer together. We've had a laugh together. I like him as a man. I just don't like how he has conducted himself as a lawyer in this case. In fact, I have previously instructed him.

43. It has been suggested to me that some may argue that it's a common institutional response to deaths in custody to deflect the blame from the state agents – i.e. here the police – to the person, their family, and includes their legal representative. I have been asked to comment on that. I just don't accept that. I accept that there might be evidence to that fact given by other witnesses, but it's just not a relevant consideration in these circumstances. Mr Anwar was making direct criticism of the SPF, and I seem to recall it was frustrating the ability of the investigation to proceed. Now, the fact that Mr Anwar happens to be black, had no bearing on it, no bearing on the response to it. He could have come from any part of the world, he could have any colour, any heritage, he'd have got the same response. To refer to what I have stated earlier, that at no point was the SPF proactive in terms of commentary to the media, it was always reactive, and that reaction was in response to criticism that was made of the SPF by Aamer Anwar. As I've said previously, just because he happens to have "LLB" after his name, does not mean that he is immune from criticism or response from the SPF as a result. At no point, and at any time, from the moment of the death of Sheku Bayoh, all the way through to this moment in time, have we said anything other than express sympathy for the family in terms of the loss of Mr Bayoh. Where there has been spats, they have been with Mr Anwar.
44. All I cared about was that I had officers to represent that were going through hell and, every time Mr Anwar opened his mouth, it was about

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trying to make inferences on wrongdoing on their part, and that had to be responded to because the officers themselves can't respond.

45. There are very limited opportunities available that police officers do. I'm not saying get their side out, because that took place much later when the Inquiry started and statements were put across, but in terms of a public defence of police officers, that is absolutely intrinsic to the role that I performed and I'm never going to apologise for doing it. People might not agree with the approaches that I took. I dare say on many occasions I got it wrong in respect of a myriad of different examples, but the SPF, as a product of statute, exists to represent the welfare and efficiency of police officers and, in that representing of the welfare, that does not mean giving all and sundry a free hit at the individuals that are subject to very traumatic investigations.
46. I have been asked about Professor Watson's comments regarding the requests for statements from the officers. I have been asked whether, when that press release went out, was I aware that the PIRC had approached the officers for statements, either directly or via the Police? No. But I think, again, there's a number of important issues in respect of that very simple question. So, at that moment in time, or in the time up to that moment in time, the officers were being supported by the SPF – Amanda Givan, primarily, but not exclusively – and they were being represented legally by Peter Watson. The PIRC, effectively a pseudo-arm of the Crown, understands or should understand that when someone is legally represented, their obligation is to communicate with their legal representative. If a police officer was to try to circumvent legal representation by going direct to witnesses or some form of surreptitious means, they would be vilified and hanged for it, and the probity of the Inquiry and approach would

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be highly questioned, and I suspect would result in disallowment of evidence.

47. The PIRC knows that. If the PIRC was involved in the activity that it says it was involved in, it was acting in an underhand manner to do so, because the PIRC knew absolutely that the officers were legally represented, and as such should not have been going to some – make up a random rank – chief inspector or superintendent saying, “By the way, this has happened,” regardless of what the instruction or information that had been shared with the lawyer. Totally, totally underhand.
48. I have been asked about the press release from the PIRC in response to that, issued on 4 June (PIRC-03925 at pp. 31 to 32): *“The PIRC has been leading on the investigation into the death in custody of Sheku Bayoh and since the hours following his death on Sunday 3 May 2015, has made several attempts to secure statements from the arresting officers. Those officers have now agreed to provide statements to the PIRC and now that the PIRC is in the process of gathering the material, it will be considered along with the information already gathered throughout the course of the investigation to date”*.
49. The release says that *“several attempts to secure statements”* were made. I’m advised that there is evidence that before the Inquiry which, if accepted, suggest attempts were made within the first two days of PIRC’s involvement. I am asked to comment on that. An important point here, though is that the officers did not instruct a solicitor. The SPF instructed a solicitor. In almost all instances where there’s a death in custody, the SPF will instruct a solicitor almost instantly. The only time that there can be a delay to that is the delay between the notification from the force to the SPF that there has been a death in

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custody. So, we used to have, and I suspect they still continue, we have fairly good relationships with the service because they recognise, by and large, that deaths in custody are traumatic incidents. They're going to be investigated, there's going to be fatal accident inquiries, so on and so forth. There is a process where the moment there is a death in custody, within a very short period of time, and that is often minutes, but it can on occasions be up to a couple of hours, the SPF is notified in order that we can put in place the legal representation for the officers. The officers did not instruct. The SPF instructed Peter Watson in this instance, to act for the officers.

50. I have been referred to my letter to Kate Frame dated 5 June 2015 (SPF-00025 [REDACTED]). In this letter, I make reference to Peter Watson's email from 7 May, which is copied to John Mitchell, saying that the email seeks "*clarification of the status of the officers*" and continues:

"I am advised Mr Mitchell subsequently confirmed by telephone that no statements could be compelled and that the status of the officers was fundamental. I am also advised Mr Mitchell himself advised that the status of the officers couldn't be confirmed until such time as the post mortem had been carried out and that he would clarify with Mr Watson when the position would be clarified.

I am also aware that in a number of subsequent telephone conversations Mr Mitchell commented that in his opinion the officers were always (likely) to be considered witnesses but no written confirmation to this effect was received."

51. I have been asked about a telephone call said to be between myself and John Mitchell. I have been referred to the letter from Kate Frame

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dated 25 June 2015 (PIRC-02151(a)) which states *"I understand that immediately after emailing your letter, you contacted Mr Mitchell, my Director of Investigations, by telephone to discuss these matters. I am aware that he was able to provide the clarification you sought. He did so and I also formally reply now to your letter as a matter of courtesy."*

52. I have also been referred to John Mitchell's Inquiry statement (SBPI-00423) at paragraphs 398, 399 and 404:

"398. I have been asked if I recall having any discussions with SPF about this matter. I think I spoke to Calum Steele. He was either the president or the chair of the Federation. I think it was after we responded in the media, because I think that's why he then phoned to the office.

399. Just the fact that that was inappropriate. He was still claiming that attempts hadn't been made, and I was saying, "Well, that's wrong; there were several attempts made."

[...]

404. I have been referred to a subsequent letter dated 25 June 2015 from the Commissioner, Kate Frame, to Calum Steele (PIRC-02151(a)), in which the Commissioner refers to me speaking to Mr Steele after his letter (PIRC-02150(a)) was received and providing "clarification". Yes, I remember, he was quite heated about the fact that our response in the press was inaccurate, and again I pointed out to him the various attempts that we had made to secure statements from the officers."

53. I don't think I've ever spoken to John Mitchell in the role he had at PIRC. So it's possible that he's wrong or I'm wrong. I suspect that, in that sense, he

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almost certainly did speak to someone – just not me. He doesn't even get my title right. I was the general secretary at that point in time, 2015, for approaching seven years. He knew who I was, and I would have had no reason to speak to him. That's the point.

54. It's put to me that what is suggested is that someone from the SPF telephones the PIRC following their press release and whoever it is that's calling was claiming that attempts hadn't been made to take statements from the officers. I have been asked if this jogs my memory at all. No, but, again, it's important that we don't get distracted from the process. If attempts had been made and bearing in mind we're dealing with Kate Frame. The Commissioner came from the Crown Office. She was the head of complaints against the police department before she came into the Police Investigation & Review Commissioner.

55. She knows the legal processes. As someone that worked in the Crown Office, she knows how things are meant to take place. If PIRC had genuinely made attempts – legitimate attempts rather than round-the-houses attempts – to secure statements from the officers, they would have had a document to be able to support it. It is telling that the response from Kate Frame to my letter does not respond to any of the single points that I made. What was the purpose of John Mitchell's email to Peter Watson? What was the purpose of it? That's a really, really important point. If, on one day one or day two or day three, John Mitchell had said, "These officers are witnesses," surely the PIRC, with its legal knowledge and its relationship with the Crown Office, knows that you back that up by correspondence. The absence of correspondence is far more damning than my letter to the PIRC.

56. I have been referred to paragraphs 377 and 378 of Kate Frame's statement (SBPI-00447), which states:

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“I’ve been referred to the letter dated 25 June 2015, in which I state that neither I nor John Mitchell “is answerable to the Scottish Police Federation”. The relationship with the SPF is poor, principally as the result of unwarranted commentary provided by the SPF and its apparent hostility to the introduction of the PIRC.”

57. One of the reasons the relationship between the SPF and the PIRC was poor was because of John Mitchell. When the PIRC was established, we gave very lengthy evidence to the Scottish Parliament about the fact that police officers have nothing to fear from an independent investigator, but there was a concern over a requirement for a culture change in the approach to the investigation of police officers, because almost in all circumstances, police officers were treated like something that you’d find on the soles of your shoes, and that there was a huge leap of faith involved in the SPF supporting the creation of the PIRC, in that the culture change would follow.
58. That was a culture change with the investigators rather than the body. Part of that culture was a very adversarial approach to witnesses, treating them really, really badly in almost all circumstances, and the concerns we had, which turned out to be well-founded, was that many of those that ended up working for PIRC had brought an attitude from, I suppose, for the sake of simplicity, from the “Life on Mars” days, and were not at all conducive to modern and fair investigative approaches.
59. So, for a whole variety of different reasons, whilst I had very good relationships with Jim Martin, that was the very first police complaints commissioner for Scotland, and then I think it was John McNeil, from Northern Ireland. I don’t think I ever spoke a word with Kate Frame, and by the same token, I don’t I think I spoke with John Mitchell either,

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but that's not to say that there wasn't engagement between the SPF and PIRC. It's just that I don't recall ever having had a conversation with John Mitchell, and I know I never had a conversation with Kate Frame.

60. I have said that John Mitchell was part of the reason that the SPF and PIRC didn't have a good relationship. I have been asked to elaborate on this. The important thing is that it wasn't just me, it was the SPF. So the SPF had dedicated representatives in the areas of misconduct, if you like, for simplicity, and the deputy general secretary overtook day-to-day responsibility and oversight of that portfolio, in addition to the Legal Advice Assistance scheme that was prevailing at that moment in time. Our concerns about the PIRC were coming from our members. They weren't things that were forged in 5 Woodside Place by a number of executive people who had no direct day-to-day dealings with the PIRC. They came from our members that, despite the fact that, a couple of years earlier, we talked about the need for a change in culture in how investigations were undertaken, that change in culture had not taken place.
61. There was a very adversarial and hostile approach to police officers when PIRC investigations were being undertaken, and that they were running roughshod over process, not being fair to the individuals, basically the worst of all worlds were being continued in PIRC. I firmly believe that, whilst John Mitchell was a product of that, having taken a very old fashioned detective investigatory approach into the PIRC, that that approach was something that was both encouraged and fostered by Kate Frame, who was a terrible commissioner when she was the Police Investigation & Review Commissioner. There can be an argument over petulance and correspondence backwards and forwards, but the fact that she says she's not answerable to the SPF,

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well, no one suggested that she was, but as the individual, the commissioner that was heading up that role, there's an obligation on her to make sure that she's responding to concerns, and she singularly failed to do that at a variety of junctures. It is also important to note that the SPF has a statutory authority to make representations to the PIRC, something it appears Kate Frame was unaware of.

62. I think to some extent the fact that Kate Frame, in her statement, said that there was hostility to the creation of the PIRC just shows how unprepared and how she had a pre-formed view upon the SPF, because that's just not factually true. The SPF welcomed the creation of the PIRC. Actually, the SPF went further and said that the PIRC should have had greater powers than it did, and indeed, subsequent to that, the SPF repeated the call that the PIRC should have greater powers.
63. So there was no hostility to the location of the PIRC. There was hostility to the adoption of the attitudes that we hoped were going to be left behind and moved to a much more inquisitorial form of investigation, but that never materialised, and we all know that Scotland is a village. People know people that know people, and from a very early point we were hearing news, or rumour if you like, coming from the offices of the PIRC that Kate Frame was, I'm paraphrasing, stomping up and down the corridors in Hamilton saying, "Get me a police officer."
64. So, whilst I understand from a legitimacy point of view why the PIRC, to establish its legitimacy and independence, would want an "early win" – and I use inverted commas deliberately there – that should not have been a consideration in how the investigations were undertaken, but the evidence that we were seeing from our members was that it

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was a case of “get me a cop at all costs” approach, that the PIRC was undertaking. So, there was a poor relationship. There was a poor relationship fostered upon the behaviour and the culture that she oversaw, as is evidenced by the fact that they don’t have any document trails that support the investigation or the suppositions that they were making in respect of asking police officers for statements when they were legally represented.

65. Now, I would have thought that any halfway competent organisation would have had that front and centre of their processes in any event, given the significance of an investigation involving a police officer, but particularly in this one, given the huge public and political eye that was being concentrated towards the investigation of the death of Sheku Bayoh, and a very early criticism of the PIRC themselves. But she’s wrong; she’s absolutely wrong that there was hostility to the creation of the PIRC. There is a myriad of documentary evidence available on the Scottish Parliament website which shows that that is absolutely, completely untrue.
66. I have been referred to the following paragraph of Kate Frame’s statement, para 378, where she goes on to say: *“Media commentary from various parties continued throughout the investigation in a fairly negative vein about Mr Bayoh, the police officers involved, and the PIRC. I considered it continued to impact on public confidence, both in the investigation and the PIRC.”*
67. I have been asked whether the SPF considered the impact of their press releases and media commentary on the investigation into the death of Sheku Bayoh. At no point did the SPF saying anything negative about Sheku Bayoh. No point. It’s just not there. The nearest thing, I suppose, that someone would say to a suggestion of negativity would be the references to the fight with Mr Saeed. That

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was reported in the press. That was publicly reported and, yes, we've referenced it on a number of occasions, but there was no personal criticism of Sheku Bayoh.

68.

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED] So, the primary

responsibility, the statutory responsibility of the SPF, is towards our members. Every time the SPF made comment, it was in response to a comment that was made by Aamer Anwar. Every single time.

Use of Twitter

69. I have been asked to confirm that my twitter account is not a Scottish Police Federation account, that it's an account in my own name. Yes. I tweet as an individual, but I know that in the eyes of the vast majority of people, there is no distinguishment whatsoever between me as an individual and the role that I had. Now, ironically, if I was tweeting about CalMac Ferries, for example, I very much think someone would have said, "Head of the Scottish Police Federation should be saying nothing about ferries. It's very political." I don't know if this is a good thing or a bad thing, but I have been variously accused in a relatively short space of time of being an apologist for the SNP, a prospective Labour candidate, and a Tory stooge. So I think that I am an equal opportunities offender when it comes to those kind of things, although to some extent that comes from part and parcel of the character of having to have a strong personality to perform the role I performed. Some of it was undoubtedly performative. It had to be, just because of the nature of the job that I carried out. So, if you are thinking about is this me tweeting as an

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individual, or is this me as the general secretary of the SPF, split the two if you can. You can't.

70. I have been asked about certain tweets which I made on 11 November 2019. Before I come to those tweets, I will set out the context. A tweet had been posted by Aamer Anwar which read *"Sheku Bayoh died in police custody 3 May 2015, up to 50 separate injuries, broken rib, lacerations, with over 50 stones bodyweight on him, cuffed, ankle & leg cuffs, restrained by up to 9 officers – today he was described to his family as being like a 'toddler having a tantrum!'"*. The post included a picture of members of Mr Bayoh's family and an image taken from a Daily Record newspaper article. The article was headed "Sheku: The Injuries" and professed to show the sites of various injuries which had been found on Mr Bayoh's body at post-mortem examination.
71. In response to this, I write *"Lots of people who follow me also follow Aamer Anwar (well we are both interesting chaps) but whilst many of you will see the image on the left [showing the injuries to Mr Bayoh] you won't be shown the somewhat more than relevant story on the right."* The "relevant story" I share is a Sun newspaper link headed *"Friends Brawled over Girlfriend"* with sub heading *"Custody death dad Sheku Bayoh's Rage at best pal and bust up over lover."* It has been suggested to me this might be taken as being directed at Collette Bell or Zahid Saeed due to the implication that they were having an affair. The point I was making was in relation to the fight between Mr Bayoh and Zahid Saeed. Anyone taking a different interpretation is simply seeking to deflect from the relevance of the reported fight. Now, if anyone can explain to me why anyone would say, "This is a story about injuries, and this is a story about someone having an affair," why would someone suggest that those two stories are relevant? Because they're not. What is relevant is that there was a fight. No logical

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reading of the two side by side can conclude to be that it's anything other than about the fight.

72. It has been suggested that me that Colette Bell, may see my tweet sharing link to this newspaper story as taking the opportunity to draw attention to a tabloid story which smears both her and Zahid Saeed. The story is about the fight. I don't think there is another newspaper story which references the fight between Sheku Bayoh and Zahid Saeed. The Daily Record generally took a view that it was not going to report on lots of stories about the Sheku Bayoh death, worried there was going to be any inferred criticism of Sheku Bayoh himself. The Sun took a slightly different approach. I think the Sun was the only paper that ran the story, even though it was known, or became known, and the subsequent evidence in the Inquiry has shown that that was the case. So I don't think there was any other reference point for me than the Sun story.
73. Now, I didn't write the Sun story. I'm not responsible for the Sun's circulation. It exists. I don't know if Collette Bell's on social media. I suspect she probably wasn't. I know that I wouldn't have been, in her circumstances, given the very obvious difficult circumstances that she was dealing with, but I want to make this point as clearly as I can. I don't believe for a minute that when it came to the commentary on the death of Sheku Bayoh, that Aamer Anwar always acted in the best interests of the family, and was often acting in his own best interests to get his own publication.
74. To be clear, I think the cynical exploitation of the family after he had tweeted that Sheku Bayoh had said, "I can't breathe," is the perfect illustration of that. Aamer Anwar did say, and this was something that he said following the protest movement following the death of George

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Floyd, that Sheku Bayoh had said, "I can't breathe." He specifically said, Sheku Bayoh said, "I can't breathe." Now, I know that he said that because I made sure that I took a screengrab of that and was able to rely on it thereafter.

75. Now, as it happens, Aamer Anwar did delete that tweet – at least to the best of my recollection he did delete it – but the evidence that I had, he said it was still there, and the following day or the day after, I believe, he cynically arranged for one of the family members of Sheku Bayoh to utter the words that they believed Sheku said, "I can't breathe," in order to act as some kind of fig leaf for his grossly overstepping the mark, making inflammatory comments that clearly could have had no basis in fact.
76. I have been asked about a further tweet on the same date. Angela Haggerty, a political journalist, responded to my tweet with the link to the Sun article. She stated *"What an appalling tweet. The article on the right, from the Sun, has no bearing on whether or not the police used appropriate force. Drawing attention to it could well be seen as simply an attempt to damage the character of a dead man and remove focus from the police."* I later responded on Twitter, saying: *"Or an attempt to bring much needed context to a much used image that otherwise lacks it – or maybe the earlier well reported fight was like this and everyone else is wrong?"* This post included a "GIF" showing one man tapping another man on the cheek and then running away. The GIF image is taken from a comedy film called "Napoleon Dynamite". I have been asked to explain the meaning of this tweet. It was in response to the use of that image from the Daily Record showing the injuries to Mr Bayoh. I understand from a journalistic, editorial perspective why it was done. It seems very sensational to have red blotches marking a body, and the inference that was being

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invited to be drawn by Aamer Anwar was that these marks and injuries were all as a result of the altercation with the police.

77. What I was saying is that there was a well-reported fight with Mr Saeed that had taken place in the moments before, and any suggestion that that fight, which was by all accounts very violent, at least in terms of the report that was taking place, was not so trivial as to amount to a slight tap on the cheek. There was a proper fight and, therefore, it was not unreasonable to consider that some, or many, potentially all – as a stretch – of the injuries that were being attributed as unfairly responsible from police officers could have come from a previous incident before the police were involved, and any logical reading of that thread in its entirety could only come to that conclusion.
78. Professional misconduct proceedings were raised as a consequence of this tweet by the Police Service of Scotland. I have been asked to confirm what the outcome of these proceedings were. I was given a warning. I hesitate to state a “written warning” because I can’t remember if that was the case. I was given a warning. I think there’s an awful lot between the tweet and the outcome that has to be covered, so I remain to this day of the view that the police service approach to that misconduct of proceedings were perverse. Anyone knows that things do not stand in isolation. They have to be looked at in terms of the totality of the picture that they represent, and that single tweet, when looked at in the totality of that string of tweets, says, “It is beyond comprehension to believe that the fight in which Mr Bayoh was reported to be involved in was so incidental as to have been the equivalent of a tap on the cheek.” ■
79. Now, there might well be legitimate questions over the wisdom of utilising the GIF from Napoleon Dynamite, but the general message

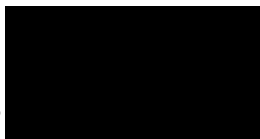
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cannot be misunderstood by anyone other than someone who is unbelievably thick. I believe that there was a pre-determined outcome in respect of my misconduct proceedings that had to find me guilty of misconduct regardless of the logic of the legal argument that was presented.

80. 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.

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May 1, 2024 | 11:34 AM BST
Date.....