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DATE: 6th June 2025

Our Ref: Operation Tarn

Ms. Sadif Ashraf
Solicitor to the Inquiry
[REDACTED]



By email only

Legal Services Department – North Hub
Police Scotland

Email – [REDACTED]

Dear Ms Ashraf,

Procedural Hearing 12 and 13 June

I refer to your correspondence of 4 June requesting confirmation of whether or not oral representation will be made by the Chief Constable at the Procedural Hearing to take place on 12 and 13 June 2025.

The Chief Constable has given careful consideration as to whether oral submissions require to be made on her behalf at the Procedural Hearing.

The Chief Constable has made written submissions but reserved further comment on the Application pending sight of the submissions of the Families and the Note by the Chair. These have since been made available. There are also submissions on behalf of the Inquiry submitted by Jason Beer KC who has joined the Inquiry Counsel team.

Having reviewed the submissions of the Families and the Note by the Chair, the Chief Constable iterates that she is concerned about the necessity of the oral Procedural

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Hearing. As presently advised the proposals as regards the conduct of the hearing remain unknown.

From the terms of the submissions of CTI it appears that the position of the Chief Constable has been misunderstood. Contrary to what is suggested by CTI, at no point was it suggested that the Chair should not make the decision about recusal, but rather it was proposed that it was not necessary to convene an oral hearing to do so. The letter of 2 May 2025 should be read as a whole. It was suggested, in the context of there being a timetable for same, that the Chair could make his decision on the basis of the *'written submissions'*. CTI agrees with the SPF position that the Chair *'cannot be the ultimate arbiter of whether he has acted fairly and impartially or is biased in fact'*.

The questions regarding the role of independent counsel were made on the basis that the Chief Constable had understood that the counsel to be instructed was to be independent of the Inquiry rather than be a member of the counsel team to the Inquiry. There was no suggestion made by the Chief Constable that such independent counsel would make the decision.

In terms of the assistance which can be offered by other Core Participants, CTI also appears to agree with the proposition made by the Chief Constable that the issue which one Core Participant has is not going to be resolved by asking other Core participants their views, whether supportive or against the position stated. CTI has stated that *'it is not the principal function of CTI- in the present context- to seek to persuade or convince the Chair what conclusion should be drawn from the facts...in particular when the Core Participants themselves offer a range of views.'* This, we would suggest calls into question the necessity of the oral hearing, in principle.

The cost to Police Scotland of the oral hearing is significant for the reasons previously stated. However, given that the procedure which has been set in train by the Inquiry means that it is now only at the oral hearing that the response of the SPF and others to the Note by the Chair and the submissions of CTI will be known, the Chief Constable is resigned to the oral Procedural Hearing proceeding.

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Otherwise, the Chief Constable reaffirms that the Families are at the heart of the Inquiry and has sympathy for the frustration they must feel that the conduct of the Chair has come to be scrutinised at this stage of the Inquiry as a result of the late disclosure of the information about the meetings. The current issue has arisen in a situation which is not of their making, but nor does it lie at the door of any other Core Participant. The Chief Constable understands why there are concerns on the part of the Applicants, those who conjoin in the application, and the Crown.

The issue should be looked at in the context of the aims of the Inquiry and the full ToR. As stated by the then Cabinet Secretary on announcing the Inquiry on 12 November 2019:

We must not lose sight of the purpose of this Inquiry: to establish the circumstances leading to and following the tragic death of Mr Bayoh in order to identify any steps which could prevent deaths in similar circumstances – and to improve the post-incident management following such deaths.

The Chief Constable has been committed to the ascertainment of the facts as to what happened to Sheku Bayoh on 3 May 2015, the investigation of the actions after his death, and as to whether or not Mr Bayoh's 'race' or perceived 'race' was a factor. One of the aims of the Inquiry is to build trust and confidence in policing.

The Chief Constable does not invite the Chair to recuse himself. The issues which the organisation has with the fairness of the conduct of the Inquiry to date will be dealt with fully in her closing submissions. That is a decision the Chief Constable can take because she is committed to continuous improvement in policing. Her engagement with the Inquiry and Police Scotland's organisational learning are aligned completely with the aims of the ToR, which include the aim to maintain and restore confidence in policing.

However, members of Police Scotland, of which she is the leader, have brought before the Chair issues of concern upon which the Chair will need to reflect and to consider fairly. Her decision not to seek recusal should not be interpreted as an indication that she is against the application of the SPF. It will now be for their representatives to




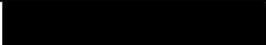
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submit, *if and why*, the Note by the Chair and/or the submissions on his behalf by CTI do not allay those concerns.


For these reasons, the Chief Constable does not require for there to be oral submissions made on her behalf at the Procedural Hearing.

Legal representation for the Chief Constable will be in attendance at the Procedural Hearing on 12 and 13 June. I can confirm the details of those attending as follows:

12 June	13 June
Maria Maguire KC	Maria Maguire KC
Lisa Henderson KC	Suzanne Lambert
	
	

Yours faithfully,




Principal Solicitor

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