

Scotland: Sheku Bayoh likely died of asphyxiation by police, lawyer says

Minnie Watson
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Sheku Bayoh, a trainee gas engineer, was arrested in Kirkcaldy, Scotland, May 3 this year. Two hours later, the 31-year-old father of two was declared dead.

The circumstances of his death are unclear and contested. His family, which has launched a campaign for justice, believe he died from positional asphyxiation after being held by several police officers using batons and CS spray. Police explanations of their response have changed repeatedly.

Police Scotland claim they responded to a report of a black man “brandishing” a knife around 7 a.m. Sunday morning. According to Amer Anwar, the civil rights lawyer acting for Bayoh’s family, two police vans and four police cars, with a total of nine uniformed police and two detectives, attended the incident. The family understands that three male officers and one female officer approached Bayoh first and were, at varying stages, assisted by several others.

Bayoh’s family claim that they were told by a senior police officer in the hours after his death that Bayoh had attacked a policewoman with the knife, warranting the use of CS spray and batons. But no subsequent reports have indicated that a police officer was attacked with a knife in the incident. Bayoh’s family has subsequently said they have discovered no knife was involved at all.

Bayoh was 5 ft. 10 ins. tall and weighed 12 stone 10 pounds (178 lbs.); one of the arresting officers was over 6 ft. 4 ins. and weighed 25 stone (350 lbs.), and another was of “heavy build”. Witnesses to the arrest describe five officers being “on top or around him” and stated that it took less than 45 seconds for Bayoh to hit the ground, face down, at the hands of the officers. In the few seconds it took for police to arrive and confront Bayoh, he had been sprayed with both pepper spray and CS gas, although he was unarmed and had not initially

resisted arrest.

Mr. Bayoh’s sister, Kadi Johnson, said she believed that “excess force” was to blame for his death. According to Anwar, evidence from Bayoh’s post-mortem leaned towards the cause of death being positional asphyxia because petechial haemorrhages (tiny blood spots) had been noted in Bayoh’s eyes.

Within days of Bayoh’s death, Police Federation lawyer Peter Watson claimed that Bayoh had chased “a petite female police officer” during the incident and claimed she had sustained an injury caused by an “unprovoked attack by a very large man who punched, kicked and stamped on her. The officer believed she was about to be murdered and I can say that but for the intervention of the other officers that was the likely outcome.”

Anwar insists there is absolutely no evidence for this allegation. He learned that the female officer, who went to hospital with Bayoh for a “check-up”, was “discharged shortly afterwards” and returned to her shift at Kirkcaldy police station.

Later reports suggest that some of the police officers involved in Bayoh’s arrest claimed they had acted with “force” because they believed Bayoh was a “terrorist”. No explanation has been forthcoming of the basis for this view.

Anwar has demanded Police Scotland’s Chief Constable Stephen House explain why his officers thought they were dealing with a terrorist threat and if that influenced the way Bayoh was treated.

What does not appear to be in dispute is that police used CS spray, pepper spray and batons at a point where Bayoh appears to have done nothing to warrant their use. Within 45 seconds of police confronting him, Bayoh was incapacitated, restrained in handcuffs, leg and ankle restraints, and was in a “prone position face

down”.

The family acknowledge that it is likely Bayoh did struggle but could hardly pose any threat to the large number of police dealing with him. Bayoh lost consciousness and stopped breathing during the arrest and never got up again. Police attempted to resuscitate him while he was still on the pavement and in restraints. This being unsuccessful, Bayoh was sent, still in cuffs, to hospital where he was pronounced dead at 9:04 a.m. He never regained consciousness.

Bayoh's death is being investigated by the Police Investigations and Review Commissioner (PIRC), and their interim report has been handed to the Crown Office. Lord Advocate Frank Mulholland is said to be likely to authorise a fatal accident inquiry. The Bayoh family has raised “serious concerns” with the PIRC and the Lord Advocate over the lack of powers afforded to PIRC to “robustly scrutinise and investigate” Police Scotland over the death of Bayoh.

One of the family's worries is that the police officers involved were not questioned by PIRC for several weeks. This led to a delay in pathology and post-mortem results being made available. Crucially, it also allowed the individual officers to confer with one another and for their memories of the events to become tainted.

It transpired that Chief of Police Stephen House had “secret” meetings with the officers under investigation, but at no point had attempted to speak with Bayoh's family. The family, through their lawyer, said House's actions are “disrespectful, disgusting and insulting.”

The family pointed out that if any of the officers face disciplinary action over Bayoh's death, that it would fall to House to investigate officers with whom he has already solidarised himself.

The same police division involved in Bayoh's death came to the attention of PIRC in October last year, when an officer was investigated over the misuse of CS gas inside Kirkcaldy's Victoria Hospital. A man had been arrested, collapsed in the back of a police vehicle and was then taken to hospital. PIRC ordered Police Scotland to introduce new rules for the use of CS gas, but at the time of Bayoh's death these new rules had not seen the light of day. Fife police have also been accused of assaults occurring nearly every two weeks in 2014, amounting to 22 separate allegations.

Since Police Scotland was established two years ago,

there have been 11 deaths in police custody including Bayoh's. Throughout the UK, a total of 333 people have died in or following police custody since 1998. Prosecutions taken out against 13 officers involved in these cases did not result in any convictions.

One killing with which Sheku Bayoh's tragic fate has disturbing parallels is the July 2005 shooting of Jean Charles de Menezes. De Menezes was killed by police after being wrongly identified as a terrorist suspect the day after the central London bombings that resulted in more than 50 deaths.

The question should be posed: What terrorist act did police believe was likely on a Sunday morning in Kirkcaldy?



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