

Episode four: The death message

INTRO:

Karin: Early on Sunday, 3 May 2015 Police Scotland's control room starts to receive calls.

CLIP 1: Hello, there's a black man, a black man with a knife on Hayfield Road in Kirkcaldy

<https://www.shekubayohinquiry.scot/node/170>

Time code [5-9seconds]

Police arrive at the scene and within minutes Sheku Bayoh is down on the ground.

After being restrained by up to six officers, he stops breathing.

Many details of what happened that morning are in dispute. His devastated family are still searching for answers.

They want to know what role race played in Sheku's death. They claim he is Scotland's George Floyd.

CLIP 3: [From Kadi interview] Sheku died here in Scotland. And we as a family are fighting for changes to happen in Scotland. No family should suffer the way that we are suffering.

Police refute this.

Now a public inquiry - launched in May 2022- is trying to find out what really happened.

CLIP 3:

Timecode: 13:33

Its purpose is to seek to ascertain the truth. And to that purpose I am fully committed.

<https://www.shekubayohinquiry.scot/hearings/preliminary-hearing-1>

Timecode: 13:33

Welcome to Sheku Bayoh: the Inquiry – a podcast series from The Ferret.

Episode four: The death message

EXTEND MUSIC

Karin: I'm Karin Goodwin, co-editor and journalist for The Ferret.

Tomiwa: And I'm Tomiwa Folorunso, a freelance writer and editor. Welcome back to our podcast about the Sheku Bayoh Inquiry, which is investigating one of the highest profile deaths in Scottish police custody to date.

Karin: It's now eight years since Sheku's loved ones were told by police that he had died. That trauma, they say, was compounded by how the news was broken to them.

They claim that a catalogue of errors, miscommunications and lies within hours of Sheku's death led to a total breakdown of trust that can't be regained.

Tomiwa: Police, meanwhile, admit errors were made but insist the intention was never to misrepresent the truth.

So in this episode we'll hear what Sheku's partner, Colette, and his older sister Kadi, have told the inquiry about how the news was broken to them.

And we'll also find out what Police Scotland has to say about the decisions made in the hours following the tragic events on the 3rd of May.

Karin: If you've not listened to the first three episodes of our series about hearing one, we suggest you go back to those first.

Karin: But for now, let's go back to the Fife town of Kirkcaldy on the morning of 3 May 2015.

Tomiwa: It's about 7.30 on Sunday morning and Sheku's partner Collette Bell is staying at her mum Lorraine's house, along with her three month old baby boy.

She's close to her mum. So when Sheku goes out with friends – like he did last night – she stays over with her new baby.

But this morning she hears not from Sheku, but his friend Zahid. Here's what she told the inquiry about that call.

CLIP 4: I remember receiving a phone call and him sounding quite panicked on the phone, and he was kind of stuttering, trying to say what he was trying to say, and he had said "Nothing to worry about, everything's okay, I'm okay, but Shek's attacked me", and I had said "What do you mean, why, what's gone on?" And he was like "Don't worry, I'm all right, but I just wanted you to know and I don't want you to go home"

Timecode: 30: 34

<https://www.shekubayohinquiry.scot/hearings/evidence-collette-bell-09022023-am>

Karin: She's immediately worried, she says, because these two friends are like brothers. They don't fight.

And Shek - as she calls her partner - is never violent. He's kind, laidback, always happy. What can be going on?

She wakes her mum to tell her, hands over the baby, dresses hurriedly and drives to her nearby home on Arran Crescent, 15 minutes away,

looking for Shek.

Tomiwa: As soon as she gets there she knows something isn't right. For a start, the door is unlocked.

CLIP 5: I remember opening the door, and I'm kind of shouting "Shek", and I go into the living room and I'm shouting him, and as I come out of the living room and look straight on -- it looks straight on to the kitchen, and the back door was open, the kitchen door. There's coats in front of our sink on the floor, and there was fridge magnets all over the floor and out into the garden, which was really strange, and then I remember running upstairs shouting on Shek to find him.

Karin: In the bedroom the small television and other bits and pieces are on the floor and she remembers wondering - what's happened? She tries to call him.

CLIP 5b: and I hear his phone ringing in the kitchen and his phone is in the corner of the kitchen on the floor, and I just started to panic straightaway."

Timecode: 32.48

<https://www.shekubayohinquiry.scot/hearings/evidence-collette-bel-09022023-am>

Tomiwa: She phones her mum and then calls Zahid again, she's taken aback by how concerned he is for her safety. Still she gets back in her car to drive around the streets to see if she can spot Sheku but he's nowhere to be seen. She calls her mum a second time. And it's her mum who suggests Collete should call the police.

Karin: Here's the call she made at 8.36am:

CLIP 6:

I received a phone call from my boyfriend's best friend saying that he's beaten them up like really really bad and he's scared for safety

and I've gone home and the door's wide open my kitchen is trashed and all my boyfriend stuff, like his jacket and his phone, is in the house and he's missing. I don't, I mean his best friend is worried he's going to hurt someone else. It's totally out of character for him
Timecode: 00:02-0:46

<https://www.shekubayohinquiry.scot/node/625>

As Collette drives back to mum's, she is less than a mile away from the A&E department of Victoria Hospital where staff are working to save Sheku's life. In less than half an hour he will be pronounced dead.

Tomiwa: And back at Kirkcaldy police station, the officers who restrained him have been told to stand down from duty. They are waiting together in the canteen, unsure of what will happen next.

Upstairs in the station, detective inspector Colin Robson has returned from Hayfield Road, where Sheku was restrained by police.

He's in a briefing with Graeme Dursley, a detective sergeant, along with three detective constables. All four have been brought in from, a nearby station, to provide "extra resource".

We'll tell you more about the investigating team and the revolving cast of officers and senior figures involved next time.

Karin: But early that morning the top priority of this newly forming team was to find out the identity of the "black male" – taken to hospital after being restrained by police.

All they know is his condition is critical.

And it is while they are gathered that Collette's call, the one we just heard, comes in.

Tomiwa: Here's what DS Dursley told the inquiry about her call.

CLIP 7: Roundabout this time there was the linked call card that had come in where Mr Bayoh's partner had called in reporting concerns for him. So what I do remember was thinking, "This could be linked and this needs to be actioned quickly.

Timecode: 1:20:46 to 1:21:06

<https://www.shekubayohinquiry.scot/hearings/evidence-ds-graeme-dursley-28022023-am>

The three DCs at the briefing - they're called Parker, Michell and Clayton – are dispatched to Collette's house, arriving at about nine o'clock. Colette arrives with her mother and baby boy shortly after.

Karin: Inside the house officers see pictures of Sheku and start to become increasingly convinced that the man from Hayfield Road, and Collette Bell's missing partner are one and the same.

Here's what DC Mitchell remembers

CLIP 8:

A. ...from what we were told it was a black male, big build and obviously the fact that the phone and the keys were sitting there as well. There was a few things that we were kind of putting together and thought well, this may well be the same guy. The fact that there had been a disturbance in the house as well, the door had been left open. It just was seeming more and more likely that this was unfortunately the same guy.

Timecode: 51:42 to 52.51

<https://www.shekubayohinquiry.scot/hearings/evidence-dc-andrew-mitchell-01022023-am>

Tomiwa: DC Parker steps outside to update DS Dursley, who's back at the station. It's then he's told the man, who we know is Sheku, has died.

Dursley asks the officers to "seize and secure" the house for police forensics and to bring Collette back to the police station.

In evidence, officers say it's normal to seize a home in these circumstances. They don't need a warrant if they have Collette's consent which, they say, she was happy to give.

Karin: But Collette told the inquiry she wasn't clear about what was happening or why. She remembers feeling confused and frightened.

It was clear that officers knew more than they were telling her. And yet when she asked questions they kept repeating that they had just come on shift, and knew nothing - that she should come down to the police station to find out more.

CLIP 9:

I think they had said something like "You'll need to get some things together because this could be the beginning of a crime scene", and that really took me aback. I was shocked, and I think it made me worry even more that they were saying that.

I think I was just thinking worst case scenario, because I do remember, whilst we were getting a bag together, going upstairs into the bedroom and I was feeding -- sorry. (Pause). I remember my mum was looking out the window. And she was saying:

"They're covering the garden with polythene" and I just remember saying: "Shek's dead".

Timecode: 59:50- 1:01:13

<https://www.shekubayohinquiry.scot/hearings/evidence-collette-bel-09022023-am>

Tomiwa: Collette drives with her mum and her 15-week-old son to the station where they are ushered into a police interview room with hard chairs and a table.

DC Parker has by now been briefed by DS Dursley. In this small, bare room he delivers the news of her partner's death. In police speak this is known as "the death message".

But, under instruction from superiors he does not tell her that Sheku had

been stopped by police immediately before his death.

In Collette's evidence she says she is told: 'There's no easy way of saying this. There's been a body found that matches your partner's description.'

Karin: That phrase - "body found" is a striking one in the circumstances. She is asked by Angela Graham KC how sure she is that is what she heard.

Here's how she responds:

CLIP10: I would swear on my children's life. No ups, downs, maybes. I didn't misunderstand anything. I remember those words being told to me like it was yesterday, and there's no hesitation in my mind that they said "There's been a body found that matches your partner's description". Timecode 1:07:32 - 1.8:40

<https://www.shekubayohinquiry.scot/hearings/evidence-collette-bel-l-09022023-am>

Karin: In her statement to the inquiry, read to her by Graham, she remembers how upset she was. But once she'd calmed down enough to speak she had so many questions. What's happened to him? Has he collapsed? Was he wounded? Was he stabbed? Where was he found?

CLIP10B: I remember asking them because I remember wanting to know what had happened. I mean, he's not just dropped down dead. And they just said that a passer-by had found him dead on the street.

Timecode: 1:10:04-1:10:19

<https://www.shekubayohinquiry.scot/hearings/evidence-collette-bel-l-09022023-am>

Karin: What Collette understands from this is that her partner, Sheku, has been murdered.

Eight years on the inquiry is trying to understand why she was not told the truth about what had happened.

Under questioning DC Parker denies that he told her Sheku was **found** dead, or that he was found by a passer-by.

CLIP 11: *“All I can remember from then from -- as we know, it was quite a short statement, a very bland one, as I have said. Her initial reaction -- she obviously was extremely upset and kept saying "It's not him, it's not him, why do you think it's him?" So that was when I give her an explanation as to why we believed it to be Sheku Bayoh at that time, so I give her a rough description, but nothing was discussed where how he was found because, in effect, we didn't know that either. I didn't know that. Andy didn't know that. So we would be pretty much giving information that we weren't party to, so no one said anything about a passer-by.”*

Timecode: 20:03 - 20:35

<https://www.shekubayohinquiry.scot/hearings/evidence-dc-wayne-parker-02022023-am>

Tomiwa: He is, he claims, just passing the message on as instructed and is not authorised to say more.

Karin: But while giving evidence DS Dursley shakes his head as he admits police got the message wrong.

CLIP 12:

Q. *What would have been wrong, however, in sharing with Collette Bell that Mr Bayoh had been alive when the police arrived at Hayfield Road, but then he had become unconscious when the police were there? I'm trying to understand why you wouldn't mention any contact.*

A. *I think we could have. We should have. At that time, we just didn't -- we didn't know how much information to give and what to give and what was going to be accurate and what wasn't. But I actually think what's right, what should we have said to them, and I*

look at that and think we should have said there was police contact and the answer to that is I don't know what happened and, you know, just be honest and tell them that.

Q. *And looking back now, how do you feel about that?*

A. *Not great. It's not nice.*

Timecode: 41.17-44.20

<https://www.shekubayohinquiry.scot/hearings/evidence-ds-graeme-dursley-28022023-pm>

Karin This is Collette's take on what she was told by DC Parker.

CLIP 13: *How does it make you feel to know that that information was withheld from you?*

A. *Disgusted.*

You know that the police have been in contact with Shek, and you know that he's died right on the back of being in contact with the police. You know that he's not been stabbed, you know that he's not been hit by a car, you know that he's died after being restrained, and you're lying.

Timecode: 1:12:58 to 1.13:47

<https://www.shekubayohinquiry.scot/hearings/evidence-collette-bel-09022023-am>

Karin: Police however maintain they did not lie to Collette but were working the information available.

Tomiwa: Ten minutes after receiving what officers acknowledged was "life-changing news" Colette was asked to give a statement. Officers said it was made clear to her she didn't have to, that she could stop at any point.

She remembers saying she didn't want to make a statement – she just wanted to see Shek.

She says she said that again and again. Officers told her, she says, that if she gave a statement, then they'd see about getting her to see Sheku. So in the end she agrees.

Karin: In evidence officers deny they said this, claiming it wouldn't be in their power.

She thought she was providing important information that might help them find out what happened to her partner, that might catch his murderer.

What difference would it have made if she'd known he'd died after police contact?

CLIP 14: I don't think I would have sat in the police station for hours giving a statement on the back of Shek dying having come into contact with the police.

Q. Why is that?

A. If the police were the last ones to see Shek alive, he was fine until they got there, why am I then going to sit in a police station and give them information, when they've hurt Shek?

Timecode 1:12:26-1:12:55

<https://www.shekubayohinquiry.scot/hearings/evidence-collette-bel-09022023-am>

Tomiwa: The officers admit that while Collette provided valuable information that helped them piece together the timeline of events, a full statement could – or should – have been taken days later.

Karin: But she does give a statement. And it's then that she passes on the details of Kadi Johnson, Sheku's sister.

Tomiwa: By 11.30am Kadi Johnson's name appears in the minutes of the first Gold group meeting, attended by senior officers including Assistant chief constable Ruaraidh Nicolson, Chief Superintendent Gary McEwan and Chief Superintendent Leslie Boal.

Karin: Also present was Detective Superintendent Pat Campbell, the senior investigating officer at this stage.

Karin: But more than three hours later, Kadi and her family have still not heard from police. They have no idea that anything has happened to their brother.

Asked about this, Pat Campbell claims there were issues locating family liaison officers who police wanted to use to break the news.

But he also admits this delay delay shouldn't have happened.

CLIP 15: It's crucial that you get that information to the family as soon as possible. And in general the system works very, very well, we do get that message out very quickly to the family. It's one of the significant regrets I have about being an SIO on that particular day about the delay with the message going to the family.

Timecode: 1:46:44-1:47:10

<https://www.shekubayohinquiry.scot/hearings/evidence-det-supt-patrick-campbell-09032023-pm>

Tomiwa: It is not until about 3pm that DC Mitchell and Parker arrive at Kadi's front door. She was upstairs when the officers arrived.

Her husband Ade called her into the living room, where her daughter was playing with the new toys she got for her seventh birthday the day before.

Her birthday party had been held the previous evening - that's the one we told you about in the first episode, which Sheku came to before heading out with his friend Zahid.

Ade sent the kids upstairs and the officers introduced themselves.

Karin: Here's Kadi:

CLIP 16: *“They said to me “There’s no easy way to say it, but Sheku has passed away”, and at that stage I just broke down, I was upset, and started crying.*

Timecode 24:44 -24:57

<https://www.shekubayohinquiry.scot/hearings/evidence-kadijartu-johnson-31012023>

Karin: Ade meanwhile is asking questions - how did he die? What happened?

And here’s what the family heard:

CLIP 17: *They were saying that they were looking for two guys and the other thing again they said he was found lying on the road and they called an ambulance and on the way to the hospital he died, you know. We just had different stories during that time when they told us that he had passed.*

Timecode: 25:57-26:16

<https://www.shekubayohinquiry.scot/hearings/evidence-kadijartu-johnson-31012023>

Does Collette know? That was one of Kadi’s first thoughts. The officers assured her she did. They stayed about ten minutes and just before they left, Kadi called Collette. She came straight over with her mum and the baby.

Tomwa: Meanwhile officers call their immediate boss – DS Dursley – to report back. He tells the inquiry they are reeling from the experience of passing on a message so devoid of detail.

He has already told the inquiry police got the death message wrong when it was passed to Collette. What does he say about this one?

CLIP 18: *We should have given them more.*

Q: What sort of information -- looking back now -- do you think you should have shared with them?

A. Very similar to what I said in relation to telling Collette earlier on, that there had been police contact, there had been calls to the police and even by that time we might have known a bit more information, more specifics about what had taken place. So yes, I think that could have been delivered at that time.

Timecode: 1:45:30 - 1:46:22

<https://www.shekubayohinquiry.scot/hearings/evidence-ds-graeme-dursley-28022023-pm>

Tomiwa: That day he claims he tries to put things right. He crosses the station to where management are based, knocks on the door and explains his concerns.

Karin: He's told by Pat Campbell that someone will get back to him, and later that management will meet the family.

The officers are sent back to the Johnsons, this time to explain that their "gaffer" - Chief Superintendent Garry McEwan – will come to talk to them.

Tomiwa: While there Mitchell's phone rings. It's DS Dursely. "You're not going to like this" he says...

And he reads him an updated statement, handwritten by Campbell, that management have now agreed to be passed on.

Karin: It says:

Following an incident this morning in the Hayfield Road area of Kirkcaldy, officers from Police Scot have been attempting to arrest Sheku Bayoh, during which time he has become unconscious, conveyed to hospital by SAS (that's the Scottish ambulance service) and despite best efforts by medical staff, died shortly after 9am this morning."

Tomiwa: Kadi remembers watching DC Mitchell read from his small black notebook with a red trim. But she remembers different wording:

CLIP 19: They told us that Sheku was involved in a forceful arrest and during that time he became unconscious and died in hospital. That's what we were told.

Timecode: 41:10-41:22

<https://www.shekubayohinquiry.scot/hearings/evidence-kadijartu-johnson-31012023>

Collette says it wasn't until Garry McEwan arrived that the word forceful was used.

But whenever it was it makes Kadi - who is a nurse - wonder if his airways may have been obstructed.

Karin: It's something she claimed she asked DC Parker about - he also had a nursing background.

By 6pm Chief Superintendent McEwan has arrived. He knew Kadi's husband, who served as a lay police advisor, both personally and professionally. With him was DI Nicola Shepherd.

Friends and family who had attended last night's party were gathered at the house by that time.

McEwan took the lead. But he didn't seem sure of the information he was giving them, according to Collette.

Kadi and Collette both remember he initially said Sheku had a machete before revising his statement - "maybe it was a blade, it might be a knife".

He told them, Collette and Kadi say, that Sheku punched and stamped on a police woman, and that pepper spray and batons were then used and he was restrained.

Tomiwa: Collette told the inquiry she will never forget that meeting.

It was – she told them – as if she stood still while the room around her started to spin.

Karin: She remembers shouting: “You won’t get away with this” as she left the room with her baby.

McEwan has not yet given evidence.

Tomiwa: But that’s not Chief Inspector Nicola Shepherd’s memory. Here’s what she told junior counsel Laura Thomson when questioned about that meeting.

CLIP 20:

Do you recall there being any mention, either by Chief Superintendent McEwan or by yourself, of a machete?

I don’t recall that.

Q. You don’t. Do you recall there being any mention of a forceful arrest?

A. No.

Q. Do you recall any mention of Sheku Bayoh punching a policewoman, her falling to the ground and him stamping on her?

A. Now, no.

Timecode: 2:39:59-2:41:15

<https://www.shekubayohinquiry.scot/hearings/evidence-ch-insp-nicola-shepherd-16032023-am>

Tomiwa: In amongst the commotion the family grappled to find facts to hold on to. Here’s Kadi on how difficult that was, and the way trust started to slip away.

CLIP 21: *We started to feel suspicious. We started to feel that are we really getting the real facts, are these true, is it the true story we*

are getting, is it made up or what? Because how can you come and tell me I have lost a loved one and you don't know exactly what to say to me, how to -- to tell me how he died?

Timecode: 54:31-55

<https://www.shekubayohinquiry.scot/hearings/evidence-kadijartu-johnson-31012023>

CLIP 22: *We deserve to know the truth. We deserve to know how my brother died and they came to me at about 3 o'clock. That's a long time for information to have gathered for them to come and give it to me, but yet that wasn't relayed to me when they came to my house. Instead we were having all this different information and that really got us upset and we lost faith.*

Timecode: 57.13-57.49

<https://www.shekubayohinquiry.scot/hearings/evidence-kadijartu-johnson-31012023>

Tomwa: In her evidence to the inquiry she wonders...If that trust had not been lost, might things have been different? Might this inquiry not have been needed at all?

CLIP23:

How was your connection with the police at that time?

A. *There was no connection. There was no connection after that.*

Timecode: 1:36:58 - 1:37:12

<https://www.shekubayohinquiry.scot/hearings/evidence-kadijartu-johnson-31012023>

Karin: Later officers from independent policing body the Police Investigations and Review Commissioner (PIRC) came to see the family, including someone Kadi understood to be a family liaison officer. They asked her to come to the hospital to identify the body.

But she said no. It was late and she wanted to wait for her mum, who

was arriving from London the next morning, to allow her to identify her son.

Meanwhile at **her** mum's, Collette wondered why she had not heard anything more from police when she had made it so clear that she wanted to see Sheku.

Tomiwa: Neither were aware that the post mortem had already been arranged for 2pm the next day. And as a result neither saw his body before then.

In evidence Pat Campbell confirmed that due to the availability of pathologists the timing of the post-mortem was set in stone. **He** insisted he passed the information on to PIRC, whose role it should have been to inform the family.

PIRC officers have yet to give evidence to the inquiry.

Karin: Meanwhile the family had instructed a high profile human rights lawyer, Aamer Anwar.

It was while sitting in their lawyer's office on Tuesday 5 May that the family heard the post mortem had taken place without their knowledge.

It was then too that they discovered police were making enquiries with the Sierra Leone embassy in London about sending his body back there.

Sheku's father had been a prominent figure in Sierra Leone - his father's last position was as the secretary to the President. But Sheku had lived in the UK since he was 12-years old. He had lived in Kirkcaldy since he was 17 and his partner, children and family were in Scotland.

The plan was halted, but, Colette told the inquiry, it felt to her at the time that they were trying to take his body away from those who loved him.

Tomiwa: When Kadi finally got to see her brother the postmortem had been done, and she was only able to view him from behind glass.

Here's what she told the inquiry about the devastating impact of that.

CLIP 24:

Q. What benefit would the family have personally from having that moment to view the body?

A. We just wanted to see him. We just wanted to touch him, you know. We just wanted to have that last connection with him before, you know ...

I think we would have some peace in our minds, you know, just seeing him and touching him for the last time and saying our goodbyes to him, but we didn't have that opportunity to do that.

Timecode: 1:54:56 -1:56:04

<https://www.shekubayohinquiry.scot/hearings/evidence-kadijartu-johnson-31012023>

Karin: Collette didn't want to see his body after the post mortem, didn't want to remember her partner that way.

CLIP25:

I think because I didn't get to say goodbye, I didn't get to see him, even now find myself thinking: "Maybe they did get it wrong, maybe it wasn't actually him". I often have nightmares and things about it, that I'll be walking down a beach on holiday and Shek'll be coming towards me, and I think it's just I didn't have that closure and I didn't have that time to say goodbye.

Timecode 2:58:34-2:59:31

<https://www.shekubayohinquiry.scot/hearings/evidence-collette-beli-09022023-am>

Karin: The Ferret contacted PIRC but they declined to comment.

In his opening statement to the inquiry Police Scotland Chief Constable Iain Livingstone offered his condolences to Sheku's family and pledged

that police would learn lessons and strive for improvement. But a spokesperson said Police Scotland did not want to comment further.

The impact of what happened has also had ripples right across the community.

Tomiwa: And that's what we'll be looking at next time as we explore the lines of the police inquiry made in those initial days.

Karin: Find all four episodes of Sheku Bayoh: The Inquiry presented by me, Karin Goodwin

Tomiwa: And me, Tomiwa Folorunso at theferret.scot or wherever you get your podcasts.

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END 28.58