

Death in Police Custody

Report on the shooting of Harry Stanley

Metropolitan Police 1999

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Introduction

INQUESTⁱ is working with Mr Stanley's widow and son and their lawyers. We have major concerns about the number of fatal shootings by police and the procedures for holding the police to account which serve neither the public interest nor the families of the deceased. A disturbing number of these deaths could and should have been avoided. INQUEST believes that the seriousness of this case warrants a fully independent public inquiry into the death and the wider issues it raises. INQUEST has raised its concerns about the case with Government Ministers, MPs and human rights organisations.

Case summary

Harry Stanley was a 46-year-old Scottish painter and decorator and father of three children. He was recovering from a successful cancer operation. On 22nd September 1999 he left his home in Hackney telling his wife he was going to visit a friend. He wanted to collect a table leg from one of his brothers who had fixed it after it had been damaged earlier in the year. On his return home he visited a public house. Another customer, mistaking Mr Stanley's accent for Irish rather than Scottish and noticing that he was carrying something long in a bag, telephoned the police to say that a man with an Irish accent was leaving the pub with a sawn-off shot gun in a plastic bag.

Within a few minutes an armed response unit from the Metropolitan Police service specialist firearms unit SO 19 arrived in the area. According to a Metropolitan police statement two officers approached Mr Stanley from behind. It is claimed that they shouted, "Stop, armed police!" Mr Stanley had no reason to imagine that the police wanted him or that they were indeed police officers and did not stop at that command. The police say that they shouted again, to which Mr Stanley responded by turning around. The police officers shot him dead, with one shot hitting him in his head, the other hitting him in his left hand. In the bag was the repaired two-foot table leg, which he had collected from his brother. Even had Mr Stanley presented an immediate risk the police did not act properly by approaching him from behind, thereby placing themselves in an open space where had he really been holding a firearm they put themselves at risk.

Even though Mr Stanley had clear identification and contact details on him, including his passport, his bankbook and his birth certificate, and the shooting took place only one hundred yards from his home, his widow was not informed about his death for more than eighteen hours after his death. His body was left lying uncovered in the street for several hours and blood on the ground from his injuries was not cleaned up. The failure to inform the family of his death meant that the family was unable to instruct their own legal and medical representatives to be present when the first post mortem took place on the 23rd September, the morning after the shooting. Once located by the police the family was given no information from the police about where they could go for advice and support. An initial offer by the police to pay for the funeral expenses was withdrawn. They have also received no letter of condolence from the Metropolitan Police. The officers involved have not been suspended but have been removed from firearm duties.

The death was voluntarily referred by the Metropolitan Police to the Police Complaints Authority for them to supervise an investigation into the death. They appointed neighbouring Surrey Constabulary to conduct the investigation. INQUEST monitoring of police shootings highlighted the fact that Surrey Police were themselves being investigated over the fatal shooting of Derek Bateman in Dorking in Surrey in July 1999; the PCA investigation into the force resulted in a Chief Inspector facing a misconduct hearing in late 2000. A sergeant will also receive "operational advice" in regard to the handling of the incident. Until our intervention the firearms inspector responsible for the Surrey officers in question was advising the investigation into the shooting of Mr Stanley. Following a formal complaint from the family concerning the delay in informing them about Mr Stanley's death, Surrey Police are now in turn being investigated by Suffolk Police about their conduct in the first 18 hours after his death.

The wider concerns

Increase in number of fatal shootings by police

Twenty-five people have been shot dead by police officers since 1990ⁱⁱ, the majority of them subsequently found to be unarmed or armed with a replica gun. Prosecutions are rare, having occurred in only two of these cases. In the case of David Ewin, a man shot dead in his car in South London in February 1995, the officer charged with manslaughter was acquitted at the second trial, the first trial jury failing to reach a verdict. The trial of officers charged with the manslaughter of unarmed man James Ashley shot dead at his home by Sussex police January 1998 is expected to take place in 2001, over three years after his death.

The investigation

All investigations into fatal shootings by police are carried out by police officers under the supervision of the Police Complaints Authority. We can have no confidence in a system of investigation that allows the police to investigate the police – in this case where Surrey themselves have been investigated for a fatal shooting should have caused the Police Complaints Authority to consider an alternative appointment. The record of such investigations is a sorry catalogue of cosy relations between forces, resulting in evasion, delay and protection of those responsible. It does nothing to inspire confidence in the family or local community. Many people are reluctant to co-operate with a police investigation because of their mistrust of the police. At a meeting of the Hackney Police Consultative Group following the shooting of Mr. Stanley, local people complained about intimidatory behaviour by Surrey police officers towards young people who were being pressurised to sign statements saying that they had not heard or seen anything in relation to his death.

The Stanley family has also complained about their treatment by the investigating police officers and the conduct of the appointed family liaison officer. They felt that the police were interrogating family members and that the family and Harry Stanley himself were being investigated in an attempt to deflect attention away from police conduct. This is a pattern that INQUEST has seen repeated time and again. At this sensitive time the police even suggested that Harry Stanley could have been trying to 'commit suicide by police shooting'.

The post mortem

Rule 7 of the Coroners Rules 1984 require that the Coroner notify in advance the relatives of a deceased person of a post mortem examination and that they can have a representative in attendance. This allows families, particularly in cases of suspicious death, to arrange for a legally qualified person or pathologist to attend the post mortem on their behalf. This can avoid the need for multiple post mortems, ensure early release of the body for burial and provide important evidence. INQUEST frequently hears evidence from families who, like the Stanleys, have not been informed of their rights to be represented and have found out that post mortems have already taken place.

Treatment of families

We remain deeply concerned at the lack of respect and dignity shown to Mr Stanley's body after he was shot. He remained lying uncovered in the street for several hours. Blood at the scene was not cleared up, causing considerable distress to family and friends, including his young grandchild. Delay in conducting the investigation has also exacerbated their distress. In common with many families following deaths in police custody, Mr Stanley's family was given no information by the police about the legal process that would follow or where to go for help and support.

Disclosure

The authority to disclose information rests with the police force under investigation. Neither the external force nor the Police Complaints Authority has the power to disclose evidence. New Home Office guidance on disclosure of information prior to any inquest is a welcome development but continues to meet resistance from the Metropolitan Police. The Stanley family will still not see the final report of the Investigating Officer whose report is covered by Public Interest Immunity. We call upon the Metropolitan Police Commissioner, in the public interest, to release the full report of the investigation into the death of Harry Stanley by Surrey Police and to ensure full pre-inquest disclosure to the family of the criminal investigation papers.

Crown Prosecution Service

When the police investigation was completed the papers were passed to the Crown Prosecution Service for a decision as to whether criminal charges should be brought against the officers involved. On 4th December 2000 the CPS announced that no officer was to face criminal charges over this death. It said it has made its decision on the basis that the officers "honestly" believed that they were at risk. The CPS said that it had taken account of witnesses and the opinions of medical and forensic experts.

The family is considering whether to challenge the CPS decision that says that manslaughter charges can not be brought because even if the officers had deployed using different tactics the final result was bound to be the same. The CPS appears to suggest that if police officers believe that a person is armed they will inevitably have to end up shooting that person. This suggestion is absurd and if it were true would be extremely frightening for us as members of the public. This unbelievable decision follows a pattern of cases where police officers whose conduct has led to death have not been subjected to proper scrutiny and shows that the rule of law does not apply to police officers. How can we accept that the shooting dead of an unarmed man does not result in a criminal trial where a jury decides whether or not the actions were unlawful? The Human Rights Act should lead to a greater protection of people's rights, particularly the right to life. These unaccounted for police killings show that the current system for investigating deaths in custody is merely a paper exercise and unworthy of any public confidence.

Inquests

It is to the inquest that the family must turn to try and establish the truth about what happened to their loved one in the absence of a prosecution. Despite recommendations of the Home Affairs Select Committee and the Lawrence Inquiry, public funding is still not routinely available for families to be represented at inquests, but only in 'exceptional cases'. Unlimited public funds remain available for the Metropolitan Police Commissioner to be represented and the Police Federation meets the individual officers' legal costs. The shooting of Harry Stanley raises many issues of important public interest and concern, and public funding must be made available to ensure that his family have access to experienced legal representation at any inquest that may take place in the absence of criminal proceedings.

The inquest has a very narrow remit, and is primarily concerned with establishing the medical cause of death. Lawyers representing families frequently complain that key witnesses have not been called to give evidence, that Coroners have restricted questioning as to whether police guidelines have been followed, and limit the verdicts available for juries to return. At the conclusion of the inquest into the death of Michael Fitzgerald, shot by Bedfordshire Police in February 1998, the Coroner directed the jury that they could only consider a verdict of Lawful Killing despite evidence heard about the incompetent planning and control of the firearms operation. At the conclusion of the inquest in February 2000 into the shooting of Diarmuid O'Neill, the Coroner issued a public statement complaining that the police had been subjected to three weeks of criticism.

Right of Silence

An inquest also allows police officers to refuse to answer any question that might incriminate them. Rule 22 of the Coroners Rules provides that any witness must be advised that they are not obliged to answer any questions that may incriminate them. This means they do not have to answer any question that goes to the heart of what happened. They can answer if they wish to but our experience is that police officers do not answer questions when given the option of remaining silent. In the recent inquests into the restraint-related deaths of Glen Howard and Christopher Alder police officers exercised the same right of silence and therefore did not give a full account of what happened.

Police use of lethal force must be subjected to thorough public scrutiny through an open, transparent and above all fair inquiry. The inquest is not an adequate forum for the examination of these cases. The European Court of Human Rights has said that where an individual dies in suspicious circumstances Article 13 requires "a thorough and effective investigation capable of leading to the identification and punishment of those responsible and including effective access for the relatives to the investigatory procedure".

Anonymity at inquests

Recent inquests into fatal shootings by police (Michael Fitzgerald, [November 1998], Diarmuid O'Neill [Feb 2000]) have seen Coroners granting police officers anonymity at the inquest. In a free and democratic society police officers must be held publicly accountable for the taking of someone's life. The granting of anonymity prejudices the fundamental objective of getting to the truth. If a witness is permitted to remain anonymous they will feel insulated from effective criticism and shielded from embarrassment and disgrace.

Police training in use of firearms

Mr Stanley was shot dead while walking home when he posed no threat and was unarmed. It is difficult to imagine how in the circumstances of Harry Stanley's death the officers could have believed that their lives were in immediate danger. This case raises particular public concern because Mr Stanley was doing nothing out of the ordinary and any member of the public with a Scottish or Irish accent could have met the same fate.

A disturbing number of cases INQUEST has been involved involve shootings of people subsequently found to be unarmed. Questions have been raised at inquests into these deaths about the quality of police training in the use of firearms and the planning and control of such operations. One of the most important documents referred to during inquests into police shootings is the ACPO Manual, the guidelines on the use of firearms first issued by the Association of Chief Police Officers in 1997 and due for revision in the new year.

The guidelines are believed to include the following minimum standards:

- Firearms should only be used when there is reason to believe that a police officer may have to face a person who is armed or so dangerous that restraint is impossible without firearms;
- Only reasonable force should be used;
- A proper briefing should be given to armed police before they set off by an officer of appropriate seniority;
- Firearms should only be used when conventional methods have been tried and failed;
- Only properly trained officers should bear arms;

The ACPO guidelines are subject to Public Interest Immunity and therefore protected from public scrutiny.

Lobbying for action

INQUEST briefed Brian Sedgemore MP (Hackney South and Shoreditch) on the case and the wider issues it raises. He met Mr Stanley's family, their lawyer and INQUEST and held a recent Parliamentary adjournment debate on the case where he concluded that:

"From what I know of the case, my considered opinion as a barrister is that a jury should be asked to decide on the evidence whether the two police officers are innocent or guilty of manslaughter or, worse, murder."

Following inquests where questions have been raised about police procedures it is difficult to establish what if any lessons are learnt and action taken. Many of these deaths could and should have been avoided. A number of cases have been referred to the European Court of Human Rights on the basis that the lethal use of force violated the individuals' right to life. INQUEST has reported its concerns about the death of Harry Stanley to the United Nations Rapporteur on Extrajudicial, Summary or Arbitrary Executions. Amnesty International has also taken up the case.

Inquest Verdict 2002

In June 2002 the inquest into the death of Harry Stanley concluded. HM Coroner for Inner North London Dr Stephen Chan refused to allow the jury at the inquest into the shooting by Metropolitan Police officers of **Harry Stanley** to consider Unlawful Killing as a verdict, they returned instead a unanimous "Open" verdict rather the only alternative left to them of "Lawful Killing".

Deborah Coles

Co-Director

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Notes

ⁱ INQUEST was founded in 1981 by the families and friends of people who had died in custody, to campaign against police and prison-related deaths and for changes in the coroners court system. INQUEST monitors deaths in custody throughout Britain. Many of these deaths raise issues of negligence, violent and inhumane treatment within institutions and concerns about state and corporate accountability. INQUEST's campaigning and policy work raises public awareness about controversial deaths and campaigns for the necessary changes to improve the investigative process, increase accountability of state officials and avert future deaths. We have brought individual cases and the wider issues they raise to the attention of the public, the media and Parliament, and international human rights bodies.

ii

Police Shootings (England & Wales) 1990-2000					
Name	Ethnicity	Date	Area	Force	Verdict/Prosecution
Patrick O'Donnell	UK White	30/10/00	Upper Holloway	Metropolitan	Awaited
Kirk Davies	UK White	24/09/00	Wakefield	West Yorkshire	Awaited
Harry Stanley	UK White	22/09/99	Hackney	Metropolitan	Awaited
Derek Bateman	UK White	22/06/99	Dorking, Surrey	Surrey	Lawful Killing – officers to be disciplined
Antony Kitts	UK White	10/04/99	Falmouth	Devon & Cornwall	Lawful Killing
Michael Fitzgerald	UK White	26/02/98	Bedford	Bedfordshire	Lawful Killing
James Ashley	UK White	15/01/98	St Leonard on Sea	Sussex	Awaited - officers charged
David Howell	UK White	20/11/96	Birmingham	West Midlands	Lawful Killing
Diarmuid O'Neill	Irish White	23/09/96	Hammersmith	Metropolitan	Lawful Killing
David Ewin	UK White	16/03/95	Barnes	Metropolitan	No inquest held – officer acquitted at trial
James Brady	UK White	24/04/95	Newcastle	Northumbria	Open
Robert Dixon	UK White	27/12/94	Sheffield	South Yorkshire	Lawful Killing
Anonymous	Unknown	1994	Unknown	Unknown	Unknown
David Stone	UK White	15/10/93	Islington	Metropolitan	Lawful Killing
Ian Hay	UK White	13/10/93	Totnes	Devon & Cornwall	Lawful Killing
David Luckhurst	UK White	17/04/93	Enfield	Metropolitan	Lawful Killing
Peter Swan	UK White	23/06/92	Croydon	Metropolitan	Lawful Killing
Barry Clutterham	UK White	27/02/92	Unknown	Unknown	Lawful Killing
Ian Bennett	UK White	01/01/92	Brighouse	West Yorkshire	Lawful Killing
Keith Carrot	UK White	10/12/91	Unknown	Unknown	Lawful Killing
Derek Wallbanks	UK White	21/10/91	Newcastle	Northumbria	Lawful Killing
Ian Gordon	UK Black	12/08/91	Telford	West Mercia	Lawful Killing
Kenneth Baker	UK White	27/11/90	Unknown	Unknown	Lawful Killing
Michael Alexander	UK White	26/04/90	Unknown	Unknown	Lawful Killing
Anonymous	Unknown	1990	Unknown	Unknown	Unknown

Where listed as Anonymous, INQUEST have not been able to establish complete details of the shooting.