



Deaths of Black, Minority and Ethnic People in Custody

INQUEST'S Submission to the Stephen Lawrence inquiry
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Submission to the Inquiry into the matters arising from the death of Stephen Lawrence

Introduction

INQUEST provides an independent free legal and advice service to the bereaved on inquest procedures and their rights in the Coroner's Court. It aims to raise 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. INQUEST has drawn international and national attention to the issue. INQUEST's report to and lobbying of the United Nations Committee on the Elimination Of Racial Discrimination (CERD) on our concerns about black and minority deaths in custody was instrumental to their finding that there are serious problems relating to deaths in custody and the lack of a fully independent investigatory process. We work closely with independent monitoring groups and black community organisations, where they exist at a local level, to ensure that bereaved families receive proper support and are able to articulate their concerns to the police and other relevant authorities.

Our interest in submitting evidence to the inquiry into matters arising from the death of Stephen Lawrence is fourfold.

Firstly, the issue of alleged institutional racism within the Metropolitan police has been raised during the first stage of the inquiry as a potential factor leading to failure to properly investigate and prosecute his murderers. The disproportionate number of individuals, particularly Africans and African-Caribbeans, who have died in suspicious circumstances in police custody has reinforced the idea that many of these deaths are a reflection of racism within the police and are as a result of racially-motivated brutality. The repeated failure of the Crown Prosecution Service to prosecute police officers involved in such deaths, even when there is an inquest verdict of unlawful killing, has done little to reduce levels of mistrust within black communities that such racially-motivated conduct is not tacitly condoned at every level the police. The report by Human Rights Watch/Helsinki in 1996, 'Racist Violence in the United Kingdom', to which INQUEST contributed, highlights this issue and notes:

This failure to act suggests to victims that there is systematic racial bias and aggressive or violent behaviour by police against such groups which lead to disproportionately more deaths. According to interviews with victims and their solicitors, there remains significant doubt that these cases are handled effectively. (Racist Violence in the United Kingdom, p. 35)

Human Rights Watch/Helsinki has recognised that the number of incidents of black deaths in police custody constitutes a form of racially motivated crime. INQUEST believes that our casework and support for the families of black people who have died in police custody provides solid evidence in support of this view and a number of cases are outlined in more detail below.

Secondly, during the course of the first stage of the inquiry, we have been struck by the alarming similarity between the experiences of Mr and Mrs Lawrence regarding the police investigation of their son's death and the experiences of families that we work with following

deaths in police custody. Families themselves have drawn that analogy, most recently the sister of Wayne Douglas speaking after the Court of Appeal had failed to grant a fresh inquest. She said:

My family believes we have been denied justice. We are particularly upset by the judge's remarks about the expense of holding a further inquest. A proper verdict on my brother's death is far more important than money. We feel, like the Lawrence family, that we have been excluded from British justice. (Guardian 31.07.98)

In particular, we are concerned by the issues of secrecy during police investigations into a death and the lack of information given to bereaved families; misinformation given about the death by the police; attempts to fit the deceased into one of the 'accepted' criminal stereotypes of a member of a black community; and the manner in which internal inquiries and reviews, whether it be the Barker review in the investigation of Stephen Lawrence's murder or internal investigations following a death in custody, have become a discredited method of reassuring relatives that their concerns will be properly addressed.

Thirdly, INQUEST receives a number of inquiries regarding non-custody deaths where relatives feel that police investigations have been inadequate or cursory. Our intervention has enabled some of these incidents to result in radically different lines of police inquiry. We are concerned, however, that the lack of priority given to the death of a black individual in such cases adds to the perception that a black people's lives are seen by police as of less worth than those of white people.

Fourthly, we have major concerns about the suitability of the inquest system in providing the families of those who have died with a proper explanation of the circumstances of a death. Often, the intervention of INQUEST, local campaigners and lawyers with experience of Coroner's Courts has been the deciding factor in ensuring the evidence is fully explored at the inquest; that the truth is established and that in some cases verdicts of unlawful killing or neglect have been returned by juries.

Without our intervention the family is dependent on the Coroner whose inquiries are shaped by the police investigation.

Deaths of Black people in police custody

The evidence that Black people, constituting a minority of 4.59% of the population of England & Wales (1991 Census), are disproportionately over-represented in statistics for deaths in police custody is borne out by INQUEST monitoring. This is particularly true of the Metropolitan police. In 1994, 5 out of 14 deaths were of Black people (35.7%) whilst in 1996, 7 out of 20 recorded deaths were in the Metropolitan area (35%). The total ethnic minority population of Greater London is 13.36% (1991 Census)

Deaths in Police Custody 1990-1998 (to July)										
	1990	1991	1992	1993	1994	1995	1996	1997	1998	Totals
Metropolitan Police	20	24	15	18	14	12	20	13	7	143
Other Forces	41	36	33	18	36	39	32	41	22	297
<i>Total Custody deaths</i>	61	60	48	36	50	51	52	54	28	439
Of which Black deaths	1	2	4	1	7	3	7	6	3	34
RTAs & pusuit - Met	N/A	N/A	N/A	N/A	N/A	N/A	1	4	1	6
RTAs & pusuit - Oth	N/A	N/A	N/A	N/A	N/A	N/A	13	21	5	39
<i>RTA & pursuit - Total</i>	<i>N/A</i>	<i>N/A</i>	<i>N/A</i>	<i>N/A</i>	<i>N/A</i>	<i>N/A</i>	<i>14</i>	<i>25</i>	<i>5</i>	<i>42</i>
Total	61	60	48	36	50	51	66	79	33	484
(N/A=not available)										

Source: INQUEST monitoring RTA = Road Traffic Accident

Crucially, there is a disproportionate number of Black people who have died following the use of force by police officers. This fact is acknowledged by the Home Office, whose Police Research Group report 'Deaths in Police Custody' (1998) notes that, in the period 1990 to 1996, 47% of black people died whilst police were present (their definition of restraint related incidents) as opposed to 7% of white people.

Cases

As part of this submission, INQUEST wishes to focus on four cases that highlight many of the concerns we have raised in our introduction.

Shiji Lapite

Shiji Lapite died after being stopped by Stoke Newington police officers for 'acting suspiciously.' The cause of death was asphyxia from compression of the neck consistent with the application of a neck hold.

At the inquest officers admitted kicking Mr Lapite in the head, biting him and placing him in a neckhold. Pathologists' evidence and post mortem reports revealed bruising and abrasions to his body, that he had suffered 36 to 45 separate injuries and that his larynx and neck were bruised and a cartilage in his voicebox fractured. Police officers could not explain the disparity in injuries received by Mr Lapite and themselves as apparent in the evidence available.

Officers said there was a violent struggle during which Mr Lapite had attempted to strangle one of them. A Home Office pathologist said that serious doubt must be thrown on this allegation given the absence of any marks on the officer's neck.

The inquest jury returned a unanimous verdict that Mr Lapite had been unlawfully killed, demonstrating that they did not believe the police version of events. However, in August 1996 the CPS announced their decision not to prosecute the officers involved in the case, despite the fact that on the first occasion that a jury heard evidence about their conduct, the inquest jury unanimously decided they had 'unlawfully killed' him. In December 1996, the PCA announced that disciplinary charges were not to be brought. Both decisions are extraordinary, particularly after the concerns that were raised within the local black population and protests outside Stoke Newington Police Station. Both decisions were successfully challenged by judicial review in the High Court in July 1997, but after a 're-examination' of the evidence, the CPS have again decided not to pursue prosecutions.

Brian Douglas

Brian Douglas was arrested in Clapham in south London not long after midnight on 3rd May 1995. During his arrest, he was hit on the head by the recently issued American-style long handled baton. The two police officers that arrested him claimed to have been acting in self-defence because Mr Douglas had allegedly been carrying a CS gas canister and a knife. This was contradicted by eye-witnesses who gave evidence at the inquest. The officers also claimed that Mr Douglas had been struck a blow on his upper arm, which slid over his shoulder and hit his neck. However, three pathologists agreed that he had been struck on the back of the head, which was consistent with accounts given by witnesses. The jury had also been told that despite vomiting in his cell, Mr Douglas was not taken to hospital until more than 12 hours after he was injured. However, they were unable to reach a verdict of unlawful killing and Brian Douglas' death is officially as a result of 'misadventure,' although the Coroner stressed the need for better training in the use of batons. No disciplinary action was taken against either officer after a PCA supervised investigation and no charges were brought by the CPS.

Wayne Douglas

Wayne Douglas, a 25-year-old black man, died in Brixton police station after a struggle during the course of his arrest on 5 December 1995. One of the central issues for the jury at this inquest was the exact cause of his death. The official post mortem report asserted that he died of heart disease. The family's expert evidence directly challenged the police's version of events that he died of a heart condition and showed that he was completely healthy. The family's lawyers suggested that his death was caused solely by the manner of his arrest and his subsequent treatment at the police station. The jury believed the family's expert witnesses and decided his death was contributed to by positional asphyxia and exhaustion not heart disease.

Following his death there was an investigation carried out by the Metropolitan Police supervised by the Police Complaints Authority. Seventy four statements as well as exhibits and 45 other documents including medical and forensic evidence, photographs and tape recorded interviews with the officers concerned were produced during the course of the investigation. The family had no access to any of that evidence before the inquest and only selective parts of it during the inquest.

The jury found Wayne Douglas had died of 'left ventricular failure due to stress and exhaustion and positional asphyxia.... following a chase and a series of restraints, in prone position, face down, as used in current police methods'.

The jury returned a verdict of accidental death. However, the Coroner confused the issues of law regarding the possibility of bringing a verdict of unlawful killing. Both the Divisional Court and the Court of Appeal have accepted that the coroner misdirected the jury on unlawful killing. Despite this on 30 July 1998 the court of Appeal refused to grant a new inquest on grounds of the time delay from the death, the fact that in their opinion a fresh inquest would not return a new verdict and outrageously that the expense and stress involved would be too high. This is in the process of being challenged by the family, who are currently preparing to petition the House of Lords for a new inquest.

Ibrahima Sey

Ibrahima Sey, a Gambian asylum seeker, died in the early hours of Saturday 16th March 1996 after having been taken from his home to Ilford Police Station in east London. He was suffering from a mental illness, the effects of which have been described variously by the labels “excited delirium” or “acute exhaustive mania”. The police arrived at the his home in response to a call for help from his wife, Amie, as a result of his strange behaviour which had alarmed her to the extent that she had jumped out of a window, leaving the two infant children behind with him. He came out of the house to be conveyed to Ilford Police Station without any struggle on his part, primarily because his friend, Mr Pa Ebou Ndimbalan, who had arrived at the scene in response to a prior call for help from his wife, was allowed to accompany him. He was not handcuffed and was co-operative with the police.

At the police station, Mr Sey refused to enter the custody suite after Mr Ndimbalan was denied access. Whilst handcuffed, he was forcibly restrained by up to nine police officers and sprayed with CS spray. Doubled over, he was walked backwards into the police station until he collapsed in a corridor. In the custody suite, some four to six officers continued to hold him down by his head, arms and legs - including two officers with their feet on his legs - for the next 15 minutes or more. It was while he was still restrained in this position that he suddenly became relaxed and, after being checked, was found not to be breathing. In consequence, an ambulance was called, and the ambulance crew have described their surprise and shock to find Mr Sey still on the floor of the custody area with his hands still cuffed behind his back when he was showing no signs of life. They took him to hospital where he was pronounced dead.

At the inquest, there was considerable disagreement regarding the cause of death, although the initial cause given to the press by the police, that Mr Sey had died from “hypertensive heart disease,” was quickly discounted. The initial pathologist was forced to concede that there was no basis for the diagnosis in the first place, and the Coroner directed the jury that Mr Sey did not suffer from any abnormality of the heart. Two experts gave evidence suggesting that Mr Sey suffered some kind of a “sudden death” purely as a result of his mental illness, but three defence experts gave evidence that the role of the CS spray in the cause of death could not be dismissed out of hand, given that it is said to be effective as a control agent precisely because it is designed to cause respiratory problems; and that the most likely mode of death in this case is positional (or restraint) asphyxia, with the effects of CS or exhaustion due to mental illness as contributory factors rather than causes of death in themselves. They argued that the suggestion that the mental illness might somehow lead to “sudden death” without any other intervening factor such as the restraint is simply not borne out by experience or reported literature.

The death was investigated by Hertfordshire Constabulary under the supervision of the Police Complaints Authority. Lawyers representing the Metropolitan Police Commissioner chose to deny access to the relevant documentation to the lawyers representing Mr Sey's family despite an express assertion by the Coroner that a fair hearing would not be possible without such access for all interested parties. Nevertheless, on the basis of the evidence presented – including statements from police officers that spoke of Mr Sey's ‘superhuman’ strength and the shocking admission that one officer changed the handcuffs on Mr Sey whilst he was unconscious and possibly already dead, to avoid having to attend the hospital - the inquest jury decided that Ibrahima Sey had been unlawfully killed.

The Crown Prosecution Service made a preliminary decision not to prosecute the officers

involved in Ibrahima Sey's death prior to the inquest. Subsequently, Hertfordshire police handed their file to the Crown Prosecution Service at the beginning of April 1998. No decision has been made at this point regarding possible prosecutions over two years since the death. However, the Metropolitan police have already announced that no disciplinary action has been taken against the officers involved.

Issues of concern

Families face a wall of secrecy and silence following a death in police custody

Our knowledge of the day to day experiences of bereaved families has led us to conclude that the mechanism for handling complaints against the police in these most serious cases is fundamentally flawed. The universal experience of these families is that investigations are conducted for the convenience of the authorities and do not play any part in revealing the true circumstances of their loved one's death. On the contrary, families feel alienated by the process and in many instances consider that the police investigation is implicated in the injustice that they have suffered. Many of the bereaved families consider themselves and the deceased to be the victims of crime. Given the concern expressed by the Judiciary and Government alike about the treatment of victims these families should also be treated with the respect and consideration afforded to others. This must be true even though the perpetrators of any crime in these cases might well be police officers.

When someone dies in police custody people generally assume there will be a full, fair and open investigation to find out exactly what happened - that the family will be given answers about the last moments of their relative's life. This is not so. In deaths in police custody families are met by a wall of silence, secrecy and insensitivity. Not only have they suffered a death with all the shock and distress that entails but they now begin to suffer the double victimisation due to their lack of rights and power within the investigative process. They have to learn with no official help the language of death and the law - what is a post mortem, pathologist, coroner, how and where to go for legal help, advice and support.

Finding out the truth about how someone has died is an essential part of the bereavement process and in coming to terms with the death. All of the families who have sought our assistance have been motivated by a need to establish the truth for their own peace of mind, to prevent others going through the same experience and for an acknowledgement of fault or responsibility where appropriate, an apology where an apology is due, for justice to be done and for lessons to be learnt.

However, the persistent failure of the Crown Prosecution Service to bring charges against police officers following inquest verdicts of unlawful killing, which can only be returned only if juries are satisfied so that they are sure that the criminal offence of manslaughter has been committed, appear to the families of those who have died to confirm that truth and justice are entirely separate when black people are killed in custody. In consequence, the notion that there is a readiness by the police to learn any lessons from these deaths seems nonsensical. Just as families suffer silence from those investigating a death in custody, the lack of an explanation as to why common sense seems always to be abandoned in the pursuit of prosecutions or disciplinary action is a further injustice.

Keeping Families Informed

Just as the Lawrence family found in the days following their son's death, our experience shows that the communication and contact by the police with families is minimal and does nothing to reassure them as to the thoroughness or impartiality of the police investigation. The need of a family to be given accurate information in the first few days after the death is crucial. In our experience families feel that they are viewed by the police as a nuisance and whether the inquiries come from them directly or from their lawyers it is viewed as getting in the way of the investigation. Although the law places families at a disadvantage, because the body becomes via the coroner the property of the state, morally it is unacceptable that a bereaved family have to fight for information about their relative. The lack of disclosure of information prior to an inquest, which has repeatedly placed obstacles in the way of lawyers preparing to represent families, has itself further contributed to growing suspicion and mistrust. Following deaths in police custody, the inability to keep families informed also extends to the Police Complaints Authority (PCA). In our experience, rarely is there contact unless a complaint has been made and even then the information given about the procedures is brief to say the least.

In the Lambeth Police Consultative Group's report 'Lessons From Tragedies' (July 1996) a key recommendation was the production of an Information leaflet explaining the procedure, detailing families rights and where to go for advice and support. It has yet to appear. An approach by INQUEST to the PCA for them to pass information about INQUEST to bereaved families was refused as they felt it might compromise their independence. It appears from our experience that when support groups are involved this is viewed with suspicion by the police. This experience is borne out by the comments of Mike Bennett from the Metropolitan Police Federation following the decision in the High Court to refer back the DPP's decision not to prosecute officers involved in the death of Shiji Lapite. Reacting to the decision on BBC Radio 4's the World at One programme (27.07.97) he said:

That seems to be mob justice as against justice... why is there any reason to change their mind, other than the fact that pressure groups have put pressure on? He also said that "certain minority groups" were "stirring up a lack of confidence" in the police, insisting "we are totally accountable".

Evidence heard at the first stage of the Lawrence Inquiry indicates that these kinds of views are not uncommon amongst Metropolitan Police officers. However, INQUEST and the other organisations we work with play an important role in providing accurate information, access to experienced lawyers and assistance throughout the complex and often lengthy investigations that follow. Criticism of police procedures has been made where criticism is due and we have brought many abuses to the attention of the media and the wider public. However this is motivated purely by our concerns and those of many of the families who we work with who want to ensure that no other family has to suffer in the same way.

Stereotyping the victim

Evidence given at the inquiry about the way both Stephen Lawrence and Duwayne Brooks were initially seen as members of a gang and that Stephen's murder may have been as a result of a gang fight, coupled with Brooks' subsequent treatment by the police, has been condemned as crude stereotyping of young black men as criminals. Mr & Mrs Lawrence have stated that they believe the police are unable to grasp the concept of a 'respectable'

black family. Unfortunately, our experience of the way black individuals are subjected to being labelled with other opprobrious black stereotypes tends to point to a problem that extends far wider than the police in south London. Shiji Lapite was repeatedly portrayed as a drug dealer on the basis that he allegedly threw away a bag of cocaine just before he was arrested – evidence that came from police officers unable to explain the multiple injuries that Lapite had suffered. Similarly, the suggestion that Brian Douglas was violent was made by alleging that he had been carrying a knife and CS canister, although eye-witnesses denied such claims. These allegations were made by police officers whose version of events were flatly contradicted by expert medical testimony. Both incidents mirror the usual stereotypes of black people – as violent and/or drug dealers - that have common currency with those who have little or no contact with black communities. Brian Douglas' brother Donald commented after his brother's death:

I fear that the numbers killed in police custody over recent years without redress may have helped to shape the attitude that informed those officers when they brought down that baton on my brother's skull. (Independent 21.08.96)

The overwhelming impression that families have expressed to us is that both immediately after a death and in the subsequent investigations, there have been attempts to trawl for any information to discredit the character of black people that are killed, presumably to in some way justify the police's actions. For example, families have repeatedly complained about being questioned, at the beginning of a PCA-supervised inquiry, about personal details such as what the individual who died was like and so on. Those we support quite rightly fail to see the relevance of such questions in an examination of the behaviour of the police.

At the inquest into the death of Ibrahima Sey, another stereotype emerged: that of the mentally disturbed black man with superhuman strength. Although Mr Sey had co-operated with the police in accompanying them to the police station and, when he refused to enter it without his friend, the police were trying to force him to do so rather than defending themselves from violent assault, one officer, Police Sergeant Lewis, claimed that he "had never dealt with anyone as strong. This man frightened the life out of me. He had superhuman strength." At this point, Mr Sey had nine police officers holding him down. His family and local campaigners commented at the time whether the same remarks would have been made had the individual being detained been white. This kind of stereotype was not new. After the inquest into the death of Oliver Pryce, who was unlawfully killed following prolonged pressure to the front of the neck in police custody in 1990, INQUEST described the case as the 'death of a caricature' given the officers descriptions of Mr Pryce in giving their evidence as an 'extremely violent, drug and alcohol crazed, super-strong animal'.

Misinformation regarding the death

One major cause of anger for black families following a death in police custody is the misinformation – perhaps more accurately 'spin' - put out in the police's publicity about the circumstances of the death. This misinformation, issued soon after the death, has tended to shape news coverage and wider public perceptions of the causes of a death and seems to be intended to play down the involvement of police officers. Thus, the Metropolitan police made much of the traces of cocaine in Shiji Lapite's blood in the immediate aftermath of his death, although pathologists reports gave it as a secondary cause of death pointing to substantial injuries leading to asphyxia as the cause of death – factors that led the inquest jury to reach a verdict of unlawful killing. Similarly, the preliminary findings of 'hypertensive

heart disease' in the case of Ibrahima Sey, which were later discredited, were given considerable publicity by the Metropolitan Police and repeated continually in the local press – even though the PCA's own press release urged caution regarding the causes of Mr Sey's death. It seemed, to the family and to local campaigners, that the police were more concerned about minimalising the possible contributing factor of CS spray at a time when trials of its use were still underway.

It is not only in the period immediately after a death in police custody that the actions of police officers are played down. The Home Office seems to be applying the same 'spin' to the facts in restraint deaths. A Briefing Note to the Police Research Group report, *Deaths in Police Custody*, states that "the combination of the way in which the detainee was held after arrest and other factors such as their size, medical condition, earlier physical exertion or consumption of drugs or alcohol, featured in many of the deaths." This is at best disingenuous and in most cases simply untrue. Drugs or alcohol play no part in the restraint deaths that have caused the most public concern in recent years, including the cases highlighted in this submission. Placing, for example, the traces of cocaine in Shiji Lapite's blood on the same level as the crushing of his larynx by police officers and other physical injuries displays a disgraceful ignorance, deliberate or otherwise, of the evidence that led to a verdict of unlawful killing. INQUEST notes with interest that the emphasis of the Police Research Group on 'additional factors' ignores the behaviour of the arresting officers themselves. It remains a simple fact: *the black people whose cases are highlighted here would be alive today were it not for the way they were mistreated by the police.*

Police investigating the police: the inadequacies of the Police Complaints Authority

The manner in which the Barker review of the initial investigation into Stephen Lawrence's murder was held up to ridicule has reinforced the already strongly held view within London's black communities that police officers investigating their colleagues' conduct will always result in a whitewash. That view has developed because the inherent flaws in the system of complaints against the police, particularly after deaths in custody, that result in no disciplinary action being taken. In INQUEST's submission to the Home Affairs Select Committee Inquiry into Police Complaints and Discipline (October 1997), we highlighted the inadequacies of the system of PCA-supervised investigations. We are concerned that, in our experience, PCA members rarely adopt a 'hands on' approach to inquiries and that, although the PCA can require an outside force to be called in, this is rarely done. The deaths of Brian Douglas and Wayne Douglas, for example, were investigated by the Metropolitan Police's own Complaints Investigation Bureau.

The fact that the police are investigating themselves makes it very difficult for them to win the trust of the deceased's family, friends and local community. This is particularly the case following a black death in custody, when the police face a black community that already has, as senior police officers acknowledge, a heightened mistrust of the police. Families frequently complain about the length of time that the investigation takes, their lack of involvement in it and, as mentioned earlier, the nature of the questions about the deceased. They are also required to make statements before the process of grieving has even begun and often feel unable to articulate their concerns about the circumstances of the death. INQUEST remains concerned that were it not for the determination of family members (mirroring the determination and dignity of the Lawrence family), the provision of experienced and committed lawyers by INQUEST, the support given by us and by the few remaining local police monitoring groups, the likelihood of the truth emerging about

restraint related deaths of black people and consequently inquest juries returning verdicts of unlawful killing would be greatly diminished. That such verdicts rarely result in disciplinary action brings the PCA into disrepute.

The PCA portrays itself as independent of the police but appears to have a major task in convincing black people that this is so. This will not be assisted by the conference they are holding in October 1998 on the issue of deaths in police custody where no consideration was given to inviting a speaker from INQUEST or any of the families we work with. This conference will proceed without the benefit of any independent voices hearing instead from professionals all involved or associated with the police. It is already perceived by many families as yet another process from which they are excluded. Had it been differently conceived it could have begun the process of necessary dialogue, which is needed if the police and the PCA are to aiming to restore their damaged reputation within the black community and indeed with the general public.

Failure to properly investigate non-custody deaths

We have been increasingly contacted by a small but nevertheless disturbing number of families where a relative has died in suspicious circumstances and they are unhappy with the police investigation. Whilst it is not within our remit to provide assistance in such cases we have referred many families to members of our Lawyers group. In some of the cases that referral has proved to be crucial to the subsequent conduct of the case – in one case a death that was initially viewed as a Road Traffic Accident becoming a high profile murder investigation. Although anecdotal it would appear from our casework that alarmingly a number of these cases, involving the deaths of black people, reveal very serious failings in the initial police investigation.

The inquest

For the family of the deceased the inquest is their **only** opportunity to find out the circumstances of the death. This is particularly important given the lack of prior disclosure of information. However there are a number of serious obstacles in the way of effective representation. For a start not everyone has a family; in some cases there is no one who qualifies as a 'properly interested person' under the Coroners' Rules. There is no legal aid (provision for it was made in the Legal Aid Act 1949 but never brought into force; it was repealed in 1988). In cases where families have had legal advice and representation (often free as there is no legal aid) experienced barristers and solicitors have been able to shed new light on the cause of death.

Even when lawyers can be found to represent the family for free, through the INQUEST Lawyers Group, it may still be necessary to pay for an independent pathologist or expert whose evidence may make a vital contribution as the Wayne Douglas and Ibrahima Sey cases illustrate. The financial burdens placed on the family appear all the more unfair when they are confronted at the inquest by lawyers representing the police force concerned, paid for out of public funds, and additional lawyers paid for by the Police Federation. There may also be lawyers representing police doctors paid for the Medical Defence Union.

Lack of disclosure of information

Another grave injustice is the unequal access to documents. The witness statements taken in

the course of the police investigation remain the property of the investigating police force, and the coroner has no power to disclose them without the consent of the police (*R v Hammersmith Coroner 1980 ex parte Peach*). The denial of information and lack of openness breeds suspicion and mistrust, and gives the impression that there is something to hide. We have also seen the additional distress caused to families on hearing evidence for the first time about the circumstances leading up to the death of their loved one.

Without access to the witness statements, lawyers for the family have no idea what evidence is coming up and whether all the relevant witnesses have been called. Disclosure of evidence would mean that the Coroner would have the benefit of another viewpoint other than that of the police who may be at fault.

In the case of Brian Douglas the Metropolitan Police Commissioner was asked to consent to disclosure of statements taken by the investigating officers but refused on spurious grounds.

Where statements are generated for a public purpose (police complaints process) they should, as a matter of course, be used in any subsequent investigation such as an inquest. It is submitted that it is wrong for police forces to rely on *ex parte Peach* to withhold those statements for entirely private and partisan reasons (in fear of coming in for public criticism due to police officers' misconduct). A number of inquests have shown that police forces are entirely arbitrary in their decision to disclose such documentation. The criterion which the Metropolitan Police in particular appears to adopt, is whether any police officers are likely to come under any criticism. There have been a number of inquests held, where the Metropolitan Police have agreed to disclose statements where the conduct of their officers is not being brought into question - inquests into road traffic accidents and the Marchioness disaster. There is a clear conflict of interest where the police are investigating police misconduct and where their Solicitors Department is protecting the interests of **both** the investigating officers and those under investigation. At the inquest into the death of Ibrahima Sey (September 1997) the Coroner, Dr Harold Price, asserted in open court that a fair hearing would not be possible without equal access for all interested parties.

Of paramount importance is the need for the PCA, through its investigators to appear to be both thorough and impartial in the way it conducts its investigation and deals with its findings. We have attended a disturbing number of inquests into deaths in police custody where the PCA, through its investigators, has given a clear and public impression of serious partiality in supplying information to those representing the Chief Constable/Commissioner and/or individual officers whose conduct is or may be called into question at the inquest. This has given the strong impression to the bereaved family that they are working as a team and has the effect of undermining the already weak public confidence in the PCA, causing unnecessary distress to the relatives and friends of the deceased, and also undermining confidence in the efficacy of the coroners' procedures.

Recommendations

After many years of providing support for black families after a death in police custody, we have become increasingly aware of a genuine fear that such deaths cause within black communities that is not present within the wider population – that even the most 'respectable' members of black communities worry that the arrest of a son or daughter could potentially result in a death simply because of their ethnicity. This is a terrible indictment on

our criminal justice system. Such fears will only be allayed by a far greater willingness to discipline and prosecute police officers, especially after inquest verdicts of unlawful killing. More training – on restraint methods or on race awareness – is largely pointless if the belief that racism dictates behaviour remains prevalent and that such attitudes extend from police officers at street-level to those who control the procedures for discipline. To begin to restore greater trust within black communities as a whole, there is an urgent need to understand that enforcing anti-racist practice through disciplinary action against those who break it is the most effective way of tackling the problem. INQUEST recommends the following action as a matter of urgency:

There should be a wide ranging public inquiry into deaths in custody to consider:

- the investigation and legal processes which follow;
- to focus in particular on the treatment of bereaved families;
- to address the disproportionate number of black deaths in custody;
- to examine the circumstances which have led to the deaths including the use of restraint;
- to suggest reforms which enable the processes that follow such deaths to fully explore the circumstances of the death and the wider context and that they ensure accountability, openness and justice.

Until there is such an inquiry:

- There should be a completely independent statutory body examining such deaths as recommended by the Home Affairs Select Committee with their own investigatory staff. In the interim, the PCA needs to recruit a team of independent investigators for the most controversial deaths involving restraint methods, until the whole complaints system has been removed from investigation by police officers.

Information should be given immediately to bereaved families about where to go for help and about what will happen.

The inquest system should be reformed to:

- provide prior disclosure of evidence to bereaved families;
- public resources to be available to families for legal preparation and representation at inquests;
- enable bereaved families to call their own witnesses;
- enable all interested parties including the lawyers for the family to sum up the evidence to the jury;
- re-establish the right of juries to add a rider to their verdict.

Additionally we would also recommend that:

- The role of community groups, particularly the few remaining independent racial harassment & police monitoring groups, needs to be given far greater recognition. Such groups provide an important element of advice and support, as well as contact with and representation to local police, which is essential in focusing frustration and distrust into positive activity in the pursuit of justice. They have therefore greatly assisted INQUEST's

work and provided extended support that we, as a small organisation, are unable to offer enabling us to focus on legal preparation and campaigning on the wider issues. Within black communities, the work of monitoring groups is crucial in offering an alternative view to that which says that nothing will ever change – a key factor in maintaining and fostering mistrust of the police. Such work is invaluable and we are gravely concerned that groups that support the families of those who have died in police custody have not been seen as a priority by local authorities to fund - indeed in some cases their funding has been cut.

INQUEST
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