

Death in Police Custody

Report on the death of Shiji Lapite

1994

Published by INQUEST
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Shiji Lapite died on 16th December 1994 after being stopped by police officers for 'acting suspiciously'. The cause of death was asphyxia from compression of the neck consistent with the application of a neckhold. 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. The inquest jury returned a unanimous verdict of 'unlawful killing'. No criminal or disciplinary charges were brought against the officers involved. His death highlights the failure to learn the lessons from previous deaths.

The inquest

The inquest was the first opportunity the family had to find out the circumstances of Shiji Lapite's death. It was also the first occasion on which the two officers involved in the events leading up to the death have answered questions about their actions, since they declined to answer any questions when interviewed under caution in the course of the police investigation.

In their evidence PC Wright admitted applying the fatal neckhold to the deceased and biting him in the chest. PC McCullum admitted kicking the deceased twice on the head as hard as he could. Both officers sought to justify their actions as the use of no more than reasonable force to subdue a violent prisoner. In particular, both officers maintained that Mr Lapite had tried to strangle PC Wright and had used such a degree of force that PC Wright was in fear of his life.

During medical examinations conducted shortly afterwards, neither officer was found to have sustained significant injury. Of particular significance was the absence of marks or reddening to PC Wright's neck. In his evidence at the inquest Dr Rouse (who had examined PC Wright) expressed the opinion that the absence of such marks was inconsistent with and drew very serious doubt upon the officers' account.

The undisputed medical evidence of the consultant forensic pathologists who gave evidence at the inquest was that the sole or primary cause of death was physical pressure applied by way of a neckhold to the front of the neck. The neckhold had been applied with sufficient force to fracture the thyroid cartilage in the voicebox (or the bones of the larynx) and to suffocate Mr Lapite until he died. The subordinate injuries to the neck were consistent with death by strangulation.

Dr Rouse, (the pathologist instructed by the Coroner) identified 36 separate areas of injury to the deceased's body. Dr West (instructed on behalf of the Metropolitan Police Commissioner) identified 45 such areas of injury. These included injuries consistent with a kick to the head, and a bite mark to the deceased's chest. The evidence of the pathologists was not challenged, either on behalf of the individual officers, or on behalf of the Commissioner.

Verdict

At the conclusion of the inquest the learned Coroner directed the jury that a verdict of unlawful killing could be returned only if they were satisfied so that they were sure that the criminal offence of manslaughter had been committed. He directed them that they should not return a verdict of unlawful killing unless they were sure that the degree of force used was plainly more than was called for in the circumstances as the officers believed them to be. Neither the individual police officers nor the Metropolitan Police Commissioner challenged the directions given by the learned Coroner, either at the time or subsequently by way of judicial review. The inquest jury returned a unanimous verdict of unlawful killing demonstrating that they did not believe the police version of events but believed that the force used on Shiji Lapite was unlawful, unreasonable and excessive.

Director of public Prosecutions and the Police Complaints Authority

In the light of the jury's verdict, the learned Coroner referred the case to the Director Of Public Prosecutions to consider a prosecution for manslaughter against the two officers involved in the death. On 9th August 1997 the CPS announced their decision not to prosecute the officers involved in the case, a decision that defied, not only the inquest jury's verdict but also the evidence itself. Predictably that decision was followed by the decision of the Police Complaints Authority announced on 2nd December 1996 that no disciplinary charges would be brought against the officers. Both decisions were successfully challenged by Judicial Review in the High Court in July 1997, though once again the CPS decided not to press charges in June 1998. A further Judicial Review of the decision by the PCA not to consider charges against those responsible for training and public safety within the Metropolitan Police is also pending.

Deaths in custody resulting from the use of neckholds and the failure to act

Mr Lapite's death was the latest in a series of deaths resulting from the use of neckholds. At the Lapite inquest, the two pathologists Dr. West and Dr Rouse gave evidence that the application of such neckholds as a method of restraining suspects was life threatening and could cause death within a very short time. Dr West referred to a substantial body of expert opinion to this effect, and confirmed that this evidence had been brought to the attention of senior police management, at both the national and local level. In particular the fatal dangers inherent in this method of restraint had been identified, long before Mr Lapite's death, by both the Home Office Policy Advisory Body on Forensic Pathology (which advises on policing matters), the Police Complaints Authority, and the Association Of Chief Police Officers (ACPO). The PCA had described the risk of death resulting from such holds as "unacceptably high."

In its Annual Report for 1993 the PCA issued a warning on the use of neckholds; following the publication of the report the secretary to the ACPO Personnel and Training Committee wrote to all Chief Constables including the Metropolitan Commissioner on the 31st March 1994.

Despite the existence of the body of knowledge, it emerged in evidence at the inquest that the officers involved in this case had received no specific training or warning concerning the use of neckholds. Indeed it emerged that no such training had been given to any Metropolitan Police officer. The recommendation by the PCA that all officers should receive appropriate warnings had not been acted upon, notwithstanding the fact that it had been drawn to the attention of the Metropolitan Police Commissioner. It was clear that those responsible for training and public safety within the Metropolitan Police had failed to heed and act upon warnings about the unacceptably high risks of fatal injury resulting from the use of neckholds.

Although a new training manual had been under consideration for some time, it was still not complete by the date of the inquest. Following the inquest and in direct consequence of Mr Lapite's death, the Metropolitan Police approved an amendment to the Officer Training Package. This involved amendments to the training manual in July 1996. As an interim measure they issued the following guidance:

"Officers should be aware that:

- neck restraints are not included within any of the modules of police defensive tactics training;
- the use of such methods to restrain offenders who are attacking or violently resisting officers is not encouraged; and
- there are inherent dangers in the use of any neck restraint.

There is a risk of grave injury or fatality to the offender. Officers must be made aware of this and consider it, should they use such methods. This is not to say that the use of neck restraints is unlawful. As with any use of force, the question to be considered is:

"WAS IT REASONABLE IN THE CIRCUMSTANCES?"

Following the announcement by the Crown Prosecution Service of their decision not to prosecute the two officers for the second time on 4th June 1998, Deborah Coles, Co-director of INQUEST said:

"(This) decision once again brings the entire criminal justice system and the role of the Crown Prosecution Service into disrepute. At a time when the public is being told that there will be major improvements in the prosecution of serious Crime the CPS have failed to demonstrate that deaths in police custody are taken seriously and that police officers will be subject to the full force of the law.

"In spite of the inquest jury decision that Shiji Lapite died as a direct result of the unlawful and excessive violence used against him by police officers nobody is to be held criminally responsible or indeed accountable for this appalling death.

"The glaring lack of accountability at all stages in the investigative and disciplinary process which denies bereaved families justice, sends a clear message that these deaths do not matter and that police crime will never be subject to the full force of the law.