



UNITED CAMPAIGNS FOR JUSTICE

Death in Police Custody

Report on the death of Ibrahima Sey

1997

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89 – 93 Fonthill Road, London, N4 3JH
Phone: 020 7263 1111 Fax: 020 7561 0799
inquest@inquest.org.uk www.inquest.org.uk

SUMMARY

1. The inquest into the death of Ibrahima Sey at Ilford Police Station on 16th March 1996 concluded on Thursday 2nd October 1997. The jury sitting with the Walthamstow Coroner at Snaresbrook Crown Court from 1st September heard extremely disturbing evidence about the treatment of this mentally ill man by police officers. The inquest raised serious concerns about the role of the police station as a place of safety and the nature of the restraint used on him, including the then newly issued CS spray.
2. The evidence has established that while Mr Sey was on his knees, with his hands cuffed behind his back and surrounded by over a dozen officers in the secure rear yard of the police station, he was sprayed with CS, and then, upon being taken into the police station, he was restrained face down on the floor for some 15 minutes or more until he had stopped breathing. The consensus amongst the numerous and eminent pathologists who have given evidence is that the restraint in the prone face down position would have impaired breathing sufficiently to cause death. The jury decided that the nature and the extent of the force used in the restraint was so unreasonable and unnecessary in the circumstances so as to render the death an Unlawful Killing.
3. On 1st October 1998 the Crown Prosecution Service announced that no officers would be charged over the death of Ibrahima Sey, despite the unanimous verdict returned (to a standard of criminal proof) by the inquest jury.

DETAILS

1. Ibrahima Sey - a Gambian asylum seeker who has left behind his widow, Amie Sey, and two infant daughters, Maimuna and Ramatulay - died in the early hours of Saturday 16th March 1996 after having been taken from his home to Ilford Police Station in East London. There is no dispute that:
 - a) He was suffering from a mental illness, the effects of which have been described variously by the labels “excited delirium” or “acute exhaustive mania”.
 - b) The police arrived at his home in response to a call for help from 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.
 - c) He eventually 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 Amie, was allowed to accompany him.
4. The real tragedy unfolded upon their arrival in the rear yard of the police station, when officers refused to allow Mr Ndimbalan to accompany Mr Sey into the police station. Evidence from Mr Ndimbalan as well as some of the officers themselves has described the events that followed : while Mr Sey was still pleading that Mr Ndimbalan should be allowed to stay with him, he was set upon by six to eight officers, one of whom grabbed him in a bear hug from behind while others grabbed his arms and legs so that he was brought down to the ground, and he was then rolled onto his stomach for his hands to be cuffed behind his back.
5. Mr Ndimbalan did not see anything further, because he was ushered away from the scene. However, the evidence from the officers themselves suggests that the sequence of the subsequent events was as follows:
 - a) On two successive attempts to raise Mr Sey to his feet, his legs seemed to buckle and give way, so that he ended up face down on the ground where he seemed to go limp on each occasion while officers continued to hold him down.
 - b) On the third attempt to raise him, he was still on his knees, with his hands still cuffed behind his back, when one of the officers sprayed him with CS which hit him in a stream around his nose and mouth, and he was seen to lick off the solvent as it dripped down his nose.
 - c) Once he was on his feet, his head was pushed down towards his knees so that he was doubled over, with his hands still cuffed behind his back, and in that posture he was walked backwards into the police station until he collapsed in a corridor.
 - d) He was then carried face down and feet first for the rest of the distance into the custody suite where he was placed face down on the floor with his hands still cuffed behind his back. 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.
5. 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 were still cuffed behind his back when he was showing no signs of life whatsoever. They took him to hospital where he was pronounced dead.
6. The purported reason for Mr Sey’s arrest is said to be suspicion of threats to kill and assault on Amie. She has explained to the jury that there was no prior history of violence in the marital relationship, and even on the day such violence was minimal: the purported reasons for the arrest were founded upon her account to the officers she called to the scene, describing Mr Sey’s strange behaviour that evening, insofar as he had been talking and chanting in a bizarre manner, throwing things about the house including items that went in her direction, and her fear that he might harm himself, herself or her children in his unpredictable state of mind. She explained that the deceased had a history of some kind of mental instability which went back some 3 or 4 years, including a breakdown in Sweden in 1992 and a further breakdown in his native Gambia

in 1994, but there had been no similar episode since his arrival in this country in May 1995. The officers who answered her call for help were specifically informed about the mental history, and indeed it was on this account that Mr Ndimbalan was allowed to accompany him in the van to the police station. One can be forgiven for pointing to their later decision to separate Mr Ndimbalan from the deceased as the spark but for which the death might not have occurred.

7. A post mortem examination took place on the evening of Saturday 16th March, conducted by Dr Michael Heath on behalf of the Coroner, in the presence of Dr Robert Chapman and Dr David Rouse for the Commissioner and the Police Federation respectively. The provisional cause of death upon that examination, pending the results of more detailed pathological and toxicological tests, was said by Dr Heath to be that “the deceased collapsed following a period of exertion and was suffering hypertensive heart disease”, and that “there was no evidence that the CS spray contributed in any way to the death”. Toxicology tests showed that no drugs or alcohol were found to be present in the deceased’s body. By late 1996, however, the official opinion as to the cause of death had been revised to be expressed as “acute exhaustive mania” by Dr Heath on the basis of consultations with Dr Henry Kennedy, consultant forensic psychiatrist at Chase Farm Hospital. Both of them gave evidence suggesting that Mr Sey suffered some kind of a “sudden death” purely as a result of his mental illness. As for the supposed hypertensive heart disease, Dr Heath was forced to concede that there was no basis for the diagnosis in the first place, and the Coroner has directed the jury that Mr Sey did not suffer from any abnormality of the heart whatsoever.
8. These findings and opinions have been in dispute from the outset upon the examination and analysis carried out on behalf of the deceased’s family by Professor Bernard Knight and Dr Nathaniel Cary, consultant forensic pathologists at the Cardiff Royal Infirmary and Papworth Hospital respectively, and Dr Maurice Lipsedge, consultant psychiatrist at Guy’s Hospital. In general terms, they have given evidence that the role of the CS spray in the cause of death cannot 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; 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; and 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.
9. Similarly, both Dr Rouse and Dr Chapman have confirmed their opinions that the restraint is a significant contributory factor in the death, as has Dr James Cairns, the Deputy Chief Coroner for Ontario in Canada who was called to speak about the experience of similar cases in North America.
10. On the wider context of this case, the evidence heard by the jury has confirmed and touched upon the now widespread recognition of the potentially fatal dangers of restraint in the face down position within the Metropolitan Police as well as other forces throughout the country. Following the deaths of Richard O’Brien in April 1994 and Wayne Douglas in December 1995, both of whom were found to have died as a result of positional or restraint asphyxia, officers throughout the Metropolitan Police, including those involved in Mr Sey’s death, had received warnings and guidance which leave no room for doubt that ignorance of the relevant issues cannot be pleaded on behalf of the officers in this case.
11. Another relevant consideration is the fact that at the time of Mr Sey’s death the use of CS spray was on a six-month trial which commenced on 1 March 1996- only some two weeks before the incident - involving 2,300 officers in 16 police forces throughout England and Wales. The Home Secretary and the Association of Chief Police Officers (ACPO) have since approved the general issue of CS spray, despite grave concern and reservations expressed in many quarters within the police forces as well as amongst the public at large about the safety of the device. Two forces - Surrey and Hertfordshire - withdrew from the trials because of safety fears, and a third force - Northamptonshire - has banned any training on the use of the device for similar reasons. Three police instructors are known to be involved in proceedings against their own forces for injuries sustained after exposure to the spray during pre-trial exercises, and the Home Office scientist who tested the product suffered blistering to her face when sprayed. According to news reports, a leaked ACPO document, circulated to police forces on 4 January 1996, acknowledges the health risks involved in the use of the device, and notes the fact that the research carried out on the device has been far from comprehensive. It would appear that ACPO and the Home Office chose nevertheless to press ahead with the trials and the subsequent general issue of CS spray - in full knowledge of the identified health risks - on the grounds that they were not prepared to wait for the development of a safer alternative.
12. The guidelines for use of the CS spray as issued by ACPO for the purposes of the trials are particularly enlightening in the context of this case. The guidelines make it clear that the device is “primarily designed for dealing with violent subjects who cannot otherwise be restrained”, and it has been issued “primarily for self defence” (1.4). It stresses that the use of the device is governed, as is the use of any force by a police officer, by common law provisions in respect of self defence and by Section 3 of the Criminal Law Act 1967, i.e. it has to be “reasonable in the circumstances” (paragraph 3). The examples given of situations where the use of a device may be appropriate refer to “those offering a level of violence which cannot be appropriately dealt with by empty hands techniques” and “violent offenders... where failure to induce immediate incapacitation would increase the risks to all present” (paragraph 4.7). It goes on to stress the special importance of monitoring the breathing and the recovery of subjects who have been sprayed; the essential imperative that “the restraint methods used after a person has been sprayed and the physical position they are placed in does not adversely affect breathing...prisoners must not be left in or transported in a prone face down position”; and the need to pay particular attention to “those exhibiting bizarre/violent behaviour or experiencing breathing difficulties” (paragraphs 5.2 - 5.4). The thrust of the guidelines as a whole make it quite clear that the device is to be used, if at all, in helping to restrain a violent subject who might not otherwise be restrained, but subsequent monitoring is essential in view of the potential health risks.
13. In all the circumstances, and on the information available to the jury, there are real issues pertaining to, not only the use of the CS spray in the particular circumstances of this case, but also the nature and extent of the force applied in the course of the restraint, and the pre-existing mental illness which might have rendered him particularly vulnerable in that context. In addition, there are also issues of a more general nature relating to the training given to officers with regard to arrest/restraint techniques, particularly in the context of the known dangers of

positional asphyxia and the handling of mentally ill subjects, as well as the decision of the Metropolitan Police Commissioner (unlike the chief constables of Surrey, Hertfordshire and Northamptonshire) to participate in the CS spray trials.

14. All of these issues will clearly need to be pursued in other forums. It remains to add that there is a very real public interest in the circumstances of the death and its potentially far reaching consequences for the operational functions of the police forces throughout the land in the context of the concerns around the training given to officers with regard to arrest/restraint techniques, particularly in the context of the known dangers of positional asphyxia, and the issue of CS spray as outlined above.
15. The death was investigated by Deputy Chief Constable Frank Wilkinson from Hertfordshire Constabulary (now Chief Constable of Gwent) under the supervision of the Police Complaints Authority. Lawyers representing the Metropolitan Police Commissioner, chose to deny advance access to the evidence gathered by the investigation 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.
16. Amie Sey and her children were represented at the hearing by Patrick O'Connor QC and Leslie Thomas, instructed by B.M.Bimberg & Co, without the benefit of legal aid which is not available for inquests. In contrast, the lawyers representing the Metropolitan Police Commissioner were paid out of the public purse, while the individual officers had the benefit of the very substantial funds of the Police Federation for the lawyers representing them.

COMMENT

Following the verdict of Unlawful Killing, Deborah Coles, Co director of INQUEST, the organisation that monitors deaths in custody, said:

"This inquest has heard about the abhorrent, brutal and inhuman treatment meted out by police officers to a mentally ill man and raises serious questions about the role of the police station as a place of safety and the training given to officers in restraint techniques and the treatment of the mentally ill.

If we are to seriously believe that lessons have been learnt about the potentially fatal dangers of restraint following the deaths of Richard O'Brien and Wayne Douglas then why did Ibrahima Sey die? What possible justification can there be for using CS spray on a terrified mentally ill man, handcuffed and already under a form of restraint acknowledged by all to be potentially fatal."