

Death in Police Custody

Report on the death of Christopher Alder

Humberside Police 1998

Report date: May 2004

Introduction

INQUEST¹ has worked with Janet Alder the sister of Christopher Alder and her lawyers since shortly after his death in April 1998². We have major concerns about the number of black deaths in police custody and the procedures for holding those responsible to account which serve neither the public interest nor the family of the deceased. A disturbing number of these cases could and should have been avoided. INQUEST believes that the seriousness of this case warrants a fully independent inquiry into the death and the wider issues it raises. INQUEST has continued to raise concerns about this case with the relevant Government Ministers and human rights organisations.

Case Summary

Christopher Alder, a 37 year old black man who was a former paratrooper decorated for service in Northern Ireland, died on 1st April 1998 after being arrested and taken to Queen's Gardens Police Station, Hull. He was arrested outside Hull Royal Infirmary where he had been taken after a fight outside a nightclub. He was taken in a police van to the station where he was supported into the custody suite and after 13 minutes police officers called an ambulance. However despite resuscitation attempts Mr Alder died.

From video evidence shown to the jury it was demonstrated that he died after being left unconscious face down on the floor of Queen's Gardens Police Station Custody Suite for 11 minutes. His trousers were around his knees, he had been doubly incontinent and blood formed a pool around his mouth. Apart from removing the handcuffs when he was initially brought into the police station the four police officers present in the custody suite did not touch Mr Alder in the 11 minutes he lay dying on the floor despite his condition. Rattles of his breath were also clearly heard on the video.

The jury at the inquest heard that Mr Alder had been involved in an altercation outside The Waterfront nightclub during which he had been hit in the mouth and had fallen to the floor. He was taken to Hull Royal Infirmary where he was seen by a doctor who logged his injuries as a cut and swollen upper lip, missing tooth and a graze to the back of the head. Mr Alder was confused and uncooperative at the hospital and was unable to be treated. Police officers escorted him from the premises. Both inside the hospital and outside the police drew a CS Spray canister and threatened to use it on him. Once outside Mr Alder complained that he wanted to return to see the doctors. According to police officers he was still being abusive and they warned him that if he did not leave he would be arrested. He refused to leave and was arrested for breach of the peace and handcuffed behind his back. Mr Alder was then put into the back of a police van and conveyed to the police station.

On arrival at the police station evidence was heard that he was taken from the police van and then dragged into the custody suite and placed face down on the floor. Officers were heard to speculate that he was faking illness. At the post mortem further injuries were revealed to his lower lip and to his head. There was no explanation as to how he sustained these further injuries, which were different to those recorded at the hospital. There was also mud recorded on his thighs and trousers.

¹ INQUEST works directly with the families of those who die in custody. It monitors deaths in custody - in police custody, prisons, immigration detention centres, as well as the inquiries held into them. INQUEST aims to raise public awareness about controversial deaths, and campaigns for the necessary changes to improve the investigation process, increase accountability of state officials and avert further deaths.

² Ruth Bunday of Harrison Bunday and Co.

Five police officers were suspended from duty and charged with misconduct in public office. As a consequence they did not answer any questions about the incident, exercising their right not to incriminate themselves under the Coroners Rules.

The police investigation

West Yorkshire Police, under the supervision of the Police Complaints Authority (PCA), carried out the investigation into the incident and subsequent death. From day one Christopher Alder's death was never treated as a potential homicide and the Custody Suite never sealed and investigated as a crime scene. Evidence was heard at the inquest that the investigation was riddled with omissions and failings. In the police station where Mr Alder died there were numerous bloodstains, which were never forensically tested. Crucial blood staining was wiped from the Custody Area and the van. Missing items were never sought (for example Christopher's belt which he had been wearing at the hospital). No proper enquiry was ever made into why Christopher's trousers were around his knees with mud on them and on his thighs, still completely inexplicable. The clothes of the officers taken for examination were returned to them with no record of what any examination revealed. The clothes, and tooth, of Christopher Alder himself were destroyed. The video recording, particularly subsequent to his actual death on video, does not appear to have ever been watched in full. The investigating officer gave evidence at the inquest that the senior officer responsible for the investigation conducted on behalf of the PCA had taken a policy decision to return the clothes of the police officers involved without sending them for any tests, did not test Mr Alder's clothes either and then ordered them to be destroyed.

No effort was made to challenge the accounts given by the police officers – the questioning of them in interview was weak, and the purpose of further investigation appeared to be to accumulate facts that would corroborate the officers' accounts rather than challenging these in any way.

The inquest

The inquest into Christopher Alder's death took place between 3rd July and 24th August 2000. Unusually at that time, exceptional legal aid was granted to allow the family to be represented at the inquest following representations to the Lord Chancellors department from the family lawyer and INQUEST. Leslie Thomas represented the family at the inquest, which was held in front of Coroner, Mr J C Saul sitting at Hull Crown Court.

The Humberside Police Chief Constable was represented at the inquest, as were the five individual police officers – PC Dawson, PC Blakey, PC Ellerington, PS Dunn and PC Barr. One of the representatives of the officers behaved in court as the effective leader of the barristers representing the individual officers. The NHS Trust was also represented, as were the paramedics. Counsel representing the NHS Trust, whose clients would not be affected by an unlawful killing verdict based on the actions or omissions of the police officers intervened to argue that the Coroner should not leave that verdict to the jury effectively strengthening the team representing the police officers. Throughout the inquest, Counsel for the Chief Constable gave the clear impression of working as a team with the Investigating Officer and police representatives.

The Coroner called over one hundred witnesses including 15 medical experts. At the beginning of the inquest concerns were raised by jury members about one of their number who was expressing views they considered to be racist. There was then a day of legal argument about whether the jury member could be discharged but the remaining members kept. The family lawyers argued to keep the remaining members of the jury against the nine other barristers. The argument was successful.

During the inquest the five key police officers elected to exercise their right under Rule 43 of the Coroners Rules 1984 not to answer questions that might incriminate them. This meant they never accounted for their actions and inactions during their contact with Christopher Alder. It also meant that they answered no questions on their statements given during the initial investigation.

There was considerable conflicting evidence at the inquest from the medical experts about the cause of death, but this was rightly left as a jury question for them to consider after hearing all the other evidence about the death.

Following seven weeks of evidence the jury's unanimous findings were: 'Christopher Alder was killed unlawfully' and that the cause of death was 'multi factorial events leading to a level of unconsciousness which resulted in upper airway obstruction and positional asphyxia'.

Charges and trial

The police officers involved in the death were originally charged with misconduct in public office and elected to leave the trial until after the inquest. Following the inquest verdict the CPS were still disinclined to consider manslaughter charges until, uniquely, the family's solicitors obtained yet further medical evidence which forced the CPS reluctantly to seek a voluntary indictment and a charge of gross negligence manslaughter was added. Having listened to submissions at the end of the Prosecution case, the Judge at Teesside directed on 21st June 2002 that the police officers could not safely be convicted on the evidence on either count that they faced, and the Jury must therefore enter not guilty verdicts. As a consequence the officers have never answered any questions about the incident, exercising their right not to incriminate themselves under the Coroners Rules at the inquest and because of the failure of the prosecution.

The Crown Prosecution Service (CPS)

The CPS was not prepared to address the racial issues inherent in the case during the preparation for the trial. They were asked to consider appointing Counsel, preferably black Counsel, sensitive to and experienced in racial issues but announced that they were not prepared to go "off circuit" and appoint anybody who was not from the North East of England. They were never prepared to address the possibility of a completely "skewed" investigation and conducted no independent review of it. They were specifically requested by Janet Alder's solicitors in February 2001 why there had never been any investigation as to what else could have possibly have happened between Mr Alder leaving the hospital and arriving at the Custody Suite. They made no effort to sit down with the family to learn of the family's concerns but treated the family as a complete nuisance and tried to use solicitors as a buffer.

There appears to have been no analysis of the ingredient of "wilful" within the misconduct charge e.g. deliberate or reckless misconduct, and again there was no scrutiny of the entire video recording detailing events later than the death which could have provided this evidence, exposing attitudes revealing recklessness, or worse, racially aggravated lack of concern. Excerpts from the video suddenly discovered at the beginning of the trial of April 2002 at the very least showed a reluctance on the part of at least one of the police officers later to be charged to co-operate for example with an examination of his clothing.

Lessons from the inquest proceedings were not taken on board by the Crown Prosecution Service, for example the questions the jury asked from time to time, indicating their concerns and their

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response to the medical evidence nor was there any proper appreciation of the judicial review determination approving the Coroners correct directions to the jury leaving unlawful killing as a possible verdict.

The CPS in first of all deciding not to bring manslaughter charges applied the wrong test of survivability and only finally changed their mind on manslaughter when the family's lawyers provided medical evidence that the actions and inaction by the officers were more than minimally causative of death. Following the successful application for a voluntary bill, the Crown at every stage was generous to the Defence and chose to call *all* the medical experts as part of the prosecution case, instead of presenting at that stage to the jury only experts who were clear, credible and certain. At half time during the trial this meant that a submission by the Defence of no case to answer was successful because of the conflict of views. (This approach was commended by the Judge when he threw out the case against all five officers but earlier referred to by him as confusing and akin to a medical negligence action).

To add insult to injury, it was discovered that the Casework Lawyer in charge of the case had a finding against him from a tribunal of victimisation of a CPS employee who had previously complained of racial discrimination. The lawyer resigned from the case and on Thursday the 14th March, less than a month before the trial was to begin, new CPS Lawyers from the York Office were appointed. On the 15th March a conference was held in London with Counsel for the Crown at which quite obviously the newly appointed CPS team had not been able to get to grips with the case nor could they have been expected to have done so at that point. The conference was unimaginably awful and gross racial insensitivity displayed.

The Senior Casework Lawyer in the new CPS team then met for a full day with Janet Alder and one of her supporters on 21st March 2002 and the very detailed and careful report of that meeting indicated how valuable it would have been had a meeting of this sort taken place a year and a half previously. There was no opportunity to deal properly with the issues that Janet Alder raised – it was all too late. Even the new CPS team appeared very quickly to assume the same irritation with Janet Alder as previous colleagues, a dismaying reaction in so short a time.

On the 9th April, a day before the trial, third Counsel was appointed who had no knowledge of the case and ultimately found herself in a completely impossible position. Whilst she was meant to liaise with the family, confidence broke down given the irreconcilable position she was placed in (and which she can no doubt address for the benefit of an enquiry) of being part of the Prosecution team with high demands upon her there and “family liaison”, as well as fighting a losing battle to become fully acquainted with the case and its history.

When submissions were made at half time, Janet Alder's solicitor was only by complete coincidence present – Janet had been given no warning that the case might suddenly end on that Friday, the 21st June, and the jury who had asked imaginative questions and made careful requests throughout the evidence they had heard, looked, through their Forman, alarmed and incredulous at being asked to return not guilty verdicts. Janet Alder, two supporters, and her solicitor went immediately from court to the family room that Teesside Crown Court had kindly provided. Not only was no contact made with them by the CPS or the team of Barristers, but no contact has been made to this day. Later that night on television the CPS said that their thoughts were with the family, but with their feet they had fled, leaving the family once again unsupported.

It is essential that there is a full and detailed public examination of this case from start to finish, beginning in the early hours of the morning of the 1st April and the first steps taken by West

Yorkshire Police investigating on behalf of the Police Complaints Authority, to explore how a systemic failure to deal with the death occurred, in such a way as to make it impossible ever to be sure of the full facts surrounding this death in custody.

Call for public inquiry

Following the collapse of the trail BBC Rough Justice commissioned a programme on the case and INQUEST and the family and solicitors had extensive background input. Following the showing of the programme, *'Death on Camera'*, on 14th April on BBC1 which contained the video evidence of Christopher Alder's death on the floor of the custody suite *the family called on David Blunkett, Home Secretary to hold a public inquiry*. The chilling video of the last eleven minutes of Christopher Alder's life had only previously been seen at the inquest and the trial of the police officers involved.

In anticipation of the response to the programme the Home Secretary announced on the afternoon of 14th April that he would be asking the new Independent Police Complaints Commission to review the case. The family maintains that this is not an adequate response and insists that there must be an inquiry in public where the officers account for their actions.

Following the screening of the programme INQUEST and the family solicitors were contacted by numerous members of the public asking what they could do to help and expressing their concern. The Daily Mirror added their support to the family, commenting in their editorial on 14th April: 'Christopher's family bravely decided the public should see this film. Now they must get a full public inquiry into the facts.' On 20th April, Janet Alder's MP Peter Pike, put down an Early Day Motion in Parliament calling for a public inquiry which at the time of writing (4th May 2004) had 34 signatories.

Comment

Since 1990 INQUEST's monitoring has revealed how a disproportionate number of black people and those from minority ethnic groups have died as a result of restraint or serious neglect. It is the emergence of statistical information backed by factual accounts about the circumstances of the death that has been crucial to understanding the influence of racism on the treatment of black people in custody.

The shocking evidence of a young black man dying on the floor of the custody suite of a police station and the subsequent failures during the investigations into his death demonstrate the need for a public inquiry. Such an inquiry should address the issues raised by his death in the context of all contentious deaths in custody and their investigation. The Home Secretary must act to ensure that such an appalling incident never happens again, and to make certain that those responsible for such deaths are held fully to account. Janet Alder and other members of the family continue to struggle, six years after Christopher's death, for truth and accountability against a backdrop of failure after failure by the criminal justice system.

There is a very real public interest in the circumstances of Christopher Alder's death. One of the continuing factors denting confidence in Britain's police is the ongoing controversy about deaths in custody, in particular those of young black men, and this is both historical and current. It has led, at times, to bitter distrust of the police. There have been a significant number of high profile deaths in police custody that have raised public and parliamentary disquiet. This legacy needs to be fully

understood if we are to move forward and ensure that the police are truly accountable to the community they serve.

Following submissions from INQUEST and verbal testimony from families during the Lawrence Inquiry the report commented:³

45.21 ... "Deaths In Custody". We are clear that this issue is outside our terms of reference. But we cannot fail to record the depth of the feelings expressed. There is a need to address the perceptions and concerns of the minority ethnic communities in this regard. Such an issue if not addressed helps only to damage the relationship between police and public, and in its wake there is an atmosphere which hinders the investigation of racist incidents and crimes.

The quality of the police investigation, in particular the failures in relation to forensic evidence prevented proper public scrutiny of Christopher Alder's death and the conduct of the police officers involved. INQUEST's monitoring of deaths in custody (and their investigation) indicates that the Government has failed to ensure the protection of the Right to Life, as required by Article 2 of the European Convention on Human Rights and the Human Rights Act 1998.

As in all these cases, the Humberside Chief Constable must be brought to account over this death and the wider concerns it raises about police treatment of black people and those with head injuries. But in addition the systemic failures within the PCA, CPS and the whole investigation process must be urgently addressed. There is disturbing pattern of cases where the police have failed to prevent deaths, and the criminal justice system has failed to bring those responsible to account. Christopher Alder's death once again brings the entire criminal justice system and the role of the CPS into disrepute. The Government must take action so that when someone dies at the hands of the State the procedures that follow ensure accountability, openness, truth and justice. The failure of the current system denies bereaved families justice and sends a clear message that Black deaths in custody do not matter.

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³ The Stephen Lawrence Inquiry Report p332