

# INQUEST

Truth Justice Accountability

## I can't breathe Race, death & British policing

Executive Summary



Unlocking  
the truth for  
40 years

# Executive Summary

**The system of accountability for racism and racial discrimination in deaths of Black people following police contact is not fit for purpose. The police watchdog, inquests and the Crown Prosecution Service have historically failed - and continue to fail - to scrutinise the role that racial stereotyping might have played in these deaths, especially where excessive force is used. The result is that officers are not held accountable; there is no systemic learning and change and more deaths of Black people occur in similar circumstances.**

The official data suggests Black people die at twice the rate of White people in or following police custody.

The government claims<sup>1</sup> that ethnicity does not impact “the likelihood of dying during or following police custody” because “Black people, in particular young Black men, are over-represented” in the arrest and detention data. This assertion can only be sustained because of the way such deaths have been categorised.

INQUEST has found from data never made public that **Black people are seven times more likely to die than White people** following the use of restraint in police custody or following contact.

Despite this stark racial disproportionality, none of the accountability processes effectively and substantially consider the role racism might have played in these deaths.



**Black people are 7 times more likely than White people to die following police restraint**



**The role of racism in these deaths is not substantially scrutinised**



**Officers are not held accountable and there is no systemic change or learning**

<sup>1</sup> Department of Health & Social Care, Home Office and the Ministry of Justice. (2021). Deaths in police custody: progress update 2021. Department of Health & Social Care, Home Office and the Ministry of Justice. Available at: <https://www.gov.uk/government/publications/deaths-in-police-custody-progress-update/deaths-in-police-custody-progress-update-2021-accessible>

The system of accountability is not working. The police are resistant to facing up to the reality of institutional racism and the IOPC lacks the political will to establish a framework, based on the current statute, that would deal with this persistent issue.

The idea that racism exists beyond explicit bigotry is not accounted for in the current bureaucratic and political structures. These are failing to recognise racism exists in a much deeper way in society that has roots in its power structures.



**Discrimination is institutional - offensive language is merely a symptom**

Furthermore, inquests are hindered by a lack of coronial racial awareness and a chronic inability to see racism being pertinent to the situation in which a Black person has died in police custody despite a wealth of evidence to suggest it is.

Discrimination is an institutional matter, of which offensive language is merely a symptom. While such deaths are seen by the investigatory authorities as isolated, individual incidents, Black people will continue to die at the hands of police.

## IOPC

The cornerstone of police accountability is the Independent Office for Police Conduct (IOPC). Police forces are required to refer all cases where contact with officers may have caused or contributed to a death or serious injury to the IOPC. Despite their own internal figures pointing to disproportionality in the ethnicity data, **the IOPC has never concluded that a police officer has a case to answer for racial discrimination** when a Black person has died following police contact.

The IOPC, a non-departmental public body<sup>2</sup> sponsored by the Home Office, is required “by law to secure and maintain public confidence in the police by ensuring the police are accountable for their actions and lessons are learnt.” If the watchdog is judged by this measure on the issue of racism and deaths following police contact, it has failed.

Using Freedom of Information requests, INQUEST has found that in cases which involved the death of a Black person where police force was used:

- ✗ Not a single officer was found to have a case to answer - when ethnicity was considered - for misconduct or gross misconduct in respect of racial discrimination between 2015 to 2021.
- ✗ There have been no findings of misconduct or gross misconduct for discrimination on the grounds of race against the officers involved.
- ✗ No police officer was referred to the Crown Prosecution Service for racially aggravated charging.
- ✗ While these cases resulted in no serious sanction against the police on any grounds, the investigatory process has dragged on for as long as six years.

<sup>2</sup> Home Office – Independent Office for Police Conduct (IOPC) Framework Agreement. (July 2018). Available at <https://www.policeconduct.gov.uk/who-we-are/accountability-and-performance/our-policies>

On paper, England and Wales have a highly developed system of oversight of police conduct, with provision for identifying racism. These nations also have a well-established investigation and coronial system to examine the circumstances of deaths in state custody, for the state to be accountable. However, no death of a Black person following police custody or contact has led to officers being effectively disciplined for racism or held to account.

INQUEST interviewed 12 expert lawyers with experience of cases involving the deaths of Black people following the use of force by the police. The aim was to identify what prevents robust investigation of the role race plays in these deaths and to gather clear ideas about what needs to change and how that might be achieved.

The lawyers reported that the police – at the rank and file level – are often uncooperative when questioned and deny their actions were influenced by racism.

Their superiors invariably back their officers. This means no proper investigation can take place by the IOPC, which itself appears to lack courage to force officers to cooperate.

In 2020, the Police's Standards of Professional Behaviour were changed to clarify that failure to cooperate with investigations and inquiries could constitute misconduct. The police watchdog could invoke this "duty of cooperation"<sup>3</sup> to force officers to comply with investigations – but has never done so.

The IOPC has not publicly accepted that institutional racism exists and therefore fails to robustly investigate racism. The IOPC's scrutiny of racism is too often a "tick-box" exercise. It does not look for patterns of actions and conduct in a substantial manner to evidence indirect discrimination, only seeking proof by way of the use of overt discriminatory language.

At present, police officers who are investigated by the IOPC can, under the framework for dealing with racism in cases involving deaths of Black people in custody, refuse to answer questions put to them.

However, the lawyers suggested that the guidance from the IOPC for its investigators in such cases, where it can be shown that there is sufficient evidence of unlawful discrimination, should be more explicit to put the onus on the police to offer reasons other than racism to explain their actions.

Significantly the IOPC's guidance on how to determine whether discrimination has taken place, nor the way it is interpreted in practice are in line with provisions in the Equality Act.

If the Equality Act<sup>4</sup> was fully applied in this way by the IOPC the refusal by officers to give a non-discriminatory explanation in cases involving the death of Black people after police contact - offering little beyond

**Officers are not held accountable and there is no systemic change or learning**

"no comment" to the IOPC – should prompt the watchdog to find that there was a case to answer for misconduct on the grounds of race.

If this were to happen, officers who gave no satisfactory explanation would have a case to answer and go to a tribunal. Were the burden of proof to shift to the police, then the IOPC guidance and practice would be legally consistent and on a par with that used in the civil courts. This would represent a step change in what happens at present.

<sup>3</sup> The Government. (2020). Explanatory Memorandum to the Police (Conduct) Regulations 2020. The National Archives. Available at: [https://www.legislation.gov.uk/uksi/2020/4/pdfs/uksiem\\_20200004\\_en.pdf](https://www.legislation.gov.uk/uksi/2020/4/pdfs/uksiem_20200004_en.pdf)

<sup>4</sup> The Government. (2010). Equality Act. The National Archives. Available at: [https://www.legislation.gov.uk/ukpga/2010/15/pdfs/ukpga\\_20100015\\_en.pdf](https://www.legislation.gov.uk/ukpga/2010/15/pdfs/ukpga_20100015_en.pdf)

## FAMILIES

INQUEST also spoke in depth to six family members of five Black men who died following the use of force by the police. We asked them specifically about consideration of the potential role that racism played in their loved one's death through the investigatory processes. All have been through an investigation, inquest hearing and have a jury conclusion.

The question of whether racism contributed to the treatment of a loved one is invariably in the minds of Black families, but not one most felt they could raise. Their reluctance to raise race with the IOPC and in public statements during the investigation was because they feared being seen to "play the race card" and provoke additional hostility in a process they experienced from the outset as adversarial.

In the aftermath of the deaths, the families experienced the police seeking to deflect from and minimise their possible wrongdoing by demonising their loved ones and drawing on racist stereotypes of Black men that "vilified" them.

Most of the families interviewed felt raising racism with the police watchdog, the media and wider public would be construed as being acrimonious; used against them; and hinder their prospects of unearthing the truth about how their family member died.

According to the IOPC's own guidelines, it is the responsibility of the watchdog to bring discrimination to light. The onus lies with the IOPC to identify possible lines of inquiry – not bereaved families. Families want only for the IOPC to do its job and carry out its duty by explicitly referring to and thoroughly investigating racial discrimination where it is apparent that it may be relevant.

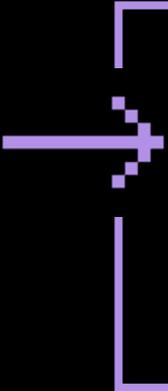
Yet families said that neither the IOPC investigation nor the inquest adequately addressed their questions about why their loved one met with force, not care; why they were treated as a threat rather than in need of help and why force was escalated when their relative was asking for assistance.

**Whether racism contributed to the treatment of a loved one is invariably in the minds of Black families**

**Most families felt that raising racism would be used against them and hinder their prospects of getting the truth**

**In the absence of direct racist verbal abuse or messages, investigators don't admit race influenced an officer's actions**

**Families conclude that investigatory processes are designed to protect the police, not to deliver justice**



## Race been erased from the content and outcomes of these hearings

Without these questions substantially answered and no one held accountable, many Black families saw racism as being the only explanation for the police's actions.

One argument INQUEST heard from families was that Black people appear less deserving of care and concern in the eyes of the police. Underlying this point of view is that racism is not merely about words but about the value society places on different groups of people and the fact that Black men, in some cases also with mental ill health, are given very little.

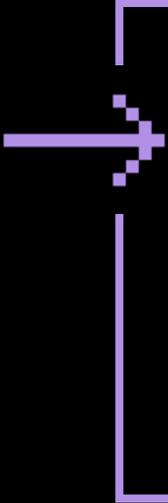
Without fully employing an analytical framework to consider discrimination - despite the watchdog's own guidance - IOPC investigators often are seen to narrow down their inquiry and obscure the context of race within the case. Such an analysis would attempt to draw conclusions about whether an officer has a case to answer on the grounds of racial discrimination from known facts about the statistical link between police use of force and race. This is not how the IOPC makes decisions. Instead, in the absence of direct racist verbal abuse or digital messages, IOPC investigators are either unable or unwilling to admit race as influencing an officer's actions in relation to the use of force.

## CORONERS' COURTS

The inquest system is also failing to scrutinise the role that racism might have played in the death of a Black person following contact with the police. The question of race is also almost always absent. It is not in the scope of issues to be considered at the inquest, missing from evidence heard and tested, and therefore not in what a coroner directs a jury to consider and not in narrative conclusions. The result is that recommendations about how to address racial discrimination in policing do not feature in Prevention of Future Death Reports.

Race has therefore been erased from the content and outcomes of these hearings. If an issue has not been explored in an inquest then, by definition, there is no evidence of it and therefore not something on which a jury could conclude. There is no automatic obligation on coroners to consider the role racism might have played in a death. However, if the IOPC were to conclude an officer had a case to answer, it would make it difficult for a coroner not to include the subject in the inquest.

When a coroner does not rest on the IOPC report alone and permits different issues and



## No death of a Black person following police custody or contact has led to officers being effectively disciplined for racism

new evidence to be heard, an inquest jury can draw different conclusions from the watchdog and highlight the shortcomings in that IOPC investigation.

Our research found inquests are not considering racism because:

- ✘ There is an entrenched discomfort among coroners about including race in inquests. Racial discrimination is contested in the public sphere with considerable political pressure not to see it as current problem.
- ✘ The lack of sufficient knowledge about discrimination law among most coroners is a current obstacle to race being included in inquests.
- ✘ Coroners are unwilling to allow a wider discussion about discrimination in relation to the circumstances of deaths – despite inquests into deaths following police contact falling under Article 2 of the European Convention on Human Rights which look

“in what circumstances” the case occurred. Persuading coroners to see racism as part of the “circumstance” in which a Black person died following police contact is currently a hurdle.

- ✘ The decision whether to raise race is often far from straightforward, said lawyers. A minority of those interviewed spoke of weighing the potential damage that raising race might have in the minds of the jury.

The absence of race in inquests examining police restraint-related deaths of Black men means the process does not fulfil their objective of establishing what happened in such cases. Instead, bereaved families are left feeling that police misdeeds have gone unpunished; that lethal malpractice will continue, and shameful conduct is never publicly acknowledged. Without significant consequences over the years, families conclude that investigatory processes are designed to protect the police, not to deliver justice.

## TERMINOLOGY

**The term “Black” in the report refers to people of African and African Caribbean background. We include mixed-race African and African-Caribbean people within this group to acknowledge the way they are racialised as Black both within the criminal justice system and wider society.**

**When examining official data, the report adopted the same racial categorisation “Black” for the analysis. This is because official figures have just one “Mixed” category which does not distinguish between different mixed race groups.**

**The authorities’ racial categorisation is imperfect. INQUEST has worked with families whose relatives have been miscategorised. This has resulted in people who are mixed race categorised as Black and vice versa.**

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