

The death of Harry Stanley – IPCC decision

Harry Stanley was shot dead at about 7.50 p.m. on 22 September 1999 in Hackney, East London, as he was walking home from the pub. He was carrying a table leg wrapped in a bag. A member of the public had seen this object, which bore a close resemblance to a sawn-off shotgun, and made a 999 call to the police. Inspector Neil Sharman and Constable Kevin Fagan, in a Metropolitan Police Service armed response vehicle, responded to this call. They saw Harry Stanley with what appeared to them to be a sawn off shot gun wrapped in a blue plastic bag. They challenged him and each fired one shot. One shot hit Mr Stanley's left hand; the other struck his head and killed him.

At the time of Mr Stanley's death, the IPCC was not in existence and its predecessor, the Police Complaints Authority, which did not have investigatory powers, supervised an investigation into his death which was carried out by Surrey Police. The investigation concluded in May 2000. Since that time there have been two inquests into Mr Stanley's death, three reviews of the investigation by the Crown Prosecution Service (CPS), a number of court challenges to decisions made in the case, and in early 2005, some further investigation by Surrey Police at the request of the CPS. The final result of these proceedings is that both inquest verdicts have been quashed, and the CPS has decided that there is insufficient evidence to prosecute anyone involved.

Now that court proceedings and consideration by the CPS have been concluded, it is now the responsibility of the IPCC, which replaced the PCA in April 2004, to make a decision about whether any officer involved should face disciplinary action. Our decision is in response to a complaint made by Mrs Irene Stanley in October 1999.

The process for our decision

In considering our decision we were aware that a great deal has happened in this case since the PCA signalled its satisfaction with the Surrey investigation in 2000, in which the IPCC has had little or no involvement, and we therefore asked Surrey Police to provide us with an updated report on disciplinary matters. This was done in December 2005. We are grateful to Surrey Police for the care and clarity with which they have produced this report. We have taken the view that, while we do not entirely adopt its reasoning, this report should be published in the public interest.

We invited representations from the family of Mr Stanley and from the officers concerned, Inspector (now Chief Inspector) Sharman and PC Fagan. We received written representations from Mrs Stanley. Chief Inspector Sharman made his representations in a meeting with IPCC Commissioner Deborah Glass.

We have considered the Surrey report and relevant evidence, all of which has been supplied to all interested persons, the representations made to us and the public interest.

Our decision

The complaints by Mrs Stanley fall into two categories:

- The police use of force on her husband, which resulted in his death; and
- The actions of the officers after her husband's death, in that she alleges that they falsified their accounts of the shooting.

The evidence in relation to both complaints is set out in the Surrey report. Much of this has been aired in public, most recently in October 2004 during the second inquest into Mr Stanley's death. The evidence that has not been aired, but was considered in detail by the CPS, is further forensic evidence in relation to the position of Mr Stanley when the fatal shot was fired, and evidence from two behavioural scientists on the effect of a shot on the movement of a body. The evidence is set out in detail in the Surrey report.

In relation to the first complaint, there is no doubt that Mr Stanley died as a direct result of the police use of force. Equally, there is no doubt that the police responded in the genuinely held belief that Mr Stanley was armed with a sawn off shotgun. Were their actions too hasty? Evidence from firearms experts has been heard on this subject and the weight of evidence now supports the officers' actions as being appropriate in the circumstances. Nor should we judge these officers' actions with the wisdom of hindsight.

The officers' accounts about Mr Stanley's movements, specifically that he had turned to face them in a "fluid deliberate movement", adopting a "classic firing position, boxer stance" have been subject to intense scrutiny at two inquests and subsequently in the second investigation by the CPS. It is fair to say that the inquest verdicts, now quashed, could not have come about if the jury had believed those accounts. It is also fair to say that while some discrepancies remain unexplained, the evidence obtained since the last inquest supports the officers' version that he was facing towards them when he was shot.

The second area of complaint does not relate to what happened when Mr Stanley was shot but to what happened afterwards. The allegation, which has been put to the officers under cross-examination at both inquests, is that, in effect, they exaggerated the apparent threat posed by Mr Stanley once they realised that he was not in fact armed. The officers were subject to Metropolitan Police post-incident procedure. After the shooting they returned to Limehouse Police Station, where they had consultations with a solicitor. Subsequently, starting at 1.30 a.m. the following morning, they began writing up their notes together. Their accounts of the incident are detailed and virtually identical, and have been maintained in interviews under caution and in the witness box under cross-examination.

We know that in some respects the officers' accounts are not consistent with other evidence, for example, their positions relative to Mr Stanley when he was shot, and it must be acknowledged that we will never know with certainty what really happened at that crucial moment. There is no direct evidence that their accounts are not an honestly held recollection of what they thought had happened. In our opinion, however, these detailed and consistent accounts lack credibility. We will never know exactly what was discussed in the post-incident debriefing and making of notes but in our view the doubts that the accounts have raised about their integrity mean that the process by which those accounts were given was fundamentally flawed.

We acknowledge that the officers were making their notes in accordance with national procedure which allowed the officers to confer before writing their notes together. There is no evidence to suggest that the post incident protocol in place at the time was not properly followed. Later evidence has introduced the concept of "perceptual distortion" which we fully accept would create real doubts about whether an incident in fact happened the way an officer remembered it after a traumatic event. But it seems to us that the effect of perceptual distortion should be to create a credible degree of inconsistency, rather than an incredible degree of consistency. In our view the process adopted to obtain the accounts, in particular allowing the pooling of recollections, has given rise to the allegation that they were fabricated after the event and in creating such doubt about their version may well have done the officers a disservice.

As set out in the Surrey report, the allegation that the officers falsified their notes requires some intentional or deliberate act; it cannot be deduced solely from discrepancies with other evidence or the incredible consistency to which we have referred, unless there is no reasonable alternative. There are alternative explanations – that the officers shared a mistaken recollection, or that they were substantially correct.

In making a decision about disciplinary action we are obliged to consider whether there is a realistic prospect that a police misconduct tribunal would find, on the balance of probabilities, that an officer had breached the Police Code of Conduct. For the reasons set out here and on the evidence available to us, we have decided that in respect of all of the allegations made against Inspector Sharman and Police Constable Fagan, disciplinary action is not justified.

Learning the lessons and recommendations

We also believe that we should consider what lessons have been learned by the Metropolitan Police in response to the tragedy of Mr Stanley's death, and what lessons remain to be learned.

Regardless of whether or not individual officers should face disciplinary action, the death of an innocent man at the hands of the police rightly raises real questions about the way firearms operations are conducted. The original report by Surrey Police made a number of recommendations about training, command and policy that have to a large degree been adopted within the Metropolitan Police. These include

significant developments in firearms training and awareness, as well as the introduction of less lethal options such as baton rounds and Tasers.

In our view some areas, which are of national relevance, still remain to be considered more fully. While it may have made no difference in this case, research has shown that individuals under the influence of alcohol (or drugs, or suffering from mental health problems) are disproportionately likely to be shot by police. This is because the basic principle of firearms operations, that people will surrender to armed police rather than risk being shot, is less likely to hold true when people are not responding rationally to challenge. This was a recommendation of the report to the Home Secretary by the PCA in 2003 and we believe that further work should be done in this area.

This case cannot be concluded without some comment about the length of time it has taken to reach this final stage. It cannot be in the best interests of justice that we are making this decision more than six years after the event and we acknowledge that what was an undoubted tragedy for the Stanley family has also severely affected the lives of the officers and their families. To some extent the reasons for the delay are historic or unusual, in particular the need for a second inquest, and a system that has now been replaced by the IPCC. To the extent that timing is now within the control of the IPCC in current investigations – and delays in the judicial system are plainly not within our control – we hope that all involved have learned this vital lesson of timeliness.

The strongest criticism of the handling of this case from the police service has been that the officers, who were doing their job to protect the people of London, were unfairly treated as suspects in a murder enquiry. To a large extent that is true, although we would also observe that if the officers had genuinely been treated as suspects from the outset they would not have been permitted to sit together to write up their notes. We do not think Surrey Police can be blamed for adopting this approach, which was certainly the expectation of such investigations at the time. But we do recommend that the police service consider very carefully whether their current post incident procedures, which are not significantly changed since Mr Stanley's death, are in the best interests of their officers and the public interest.

The police cannot have it both ways. The IPCC has already made it clear that our investigators will not treat officers who fire fatal shots on duty as suspects unless there is evidence to suggest that a criminal offence may have been committed. If that is the case, it is difficult to see why they should not be treated immediately like any other significant witness, who are not given access to legal advice and permitted to pool their recollections before giving an account. Video recordings of incident debriefs, which could later be shown if necessary alongside expert advice about the effect of perceptual distortion on the accounts, would provide a credibility with the public that is lacking in the present system.

We recommend that the ACPO Committee on the Police Use of Firearms in conjunction with the IPCC revise the current protocol as a matter of urgency.

Finally, we are all too aware of the huge emotional cost of this long-running case on all who have been involved. Mrs Stanley and her children have lost a loving husband and father, and nothing will bring him back. Chief Inspector Sharman, in his meeting with the IPCC, was eloquent about the effect on him of taking a man's life. He told us that Mr Stanley's death was still the first thing he thought of in the morning and the last thing at night, and would never leave him. But in the adversarial climate in which this case has proceeded, the Stanley family have never had the opportunity to hear directly from the officer about the effect of his fatal action. It may be too late in this case to consider the principles of restorative justice, but we strongly recommend that these be considered at an early stage in future.

We must also be clear that none of these recommendations will prevent fatal mistakes happening in future. Developments in training, policy and less lethal options should lessen the risk but will not eliminate it. The risk of mistake will be present as long as society expects police officers to carry guns to protect it from armed threats.



Deborah Glass
Commissioner



Rebecca Marsh
Commissioner



Tom Davies
Commissioner