

British police acquitted of wrongdoing after shooting unarmed man

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Three senior police officers were last week cleared of any misconduct in the planning of a raid in which a naked unarmed man was killed. This follows the dropping of murder charges last month against the officer who fired the fatal shot. A fifth officer had also been cleared of misconduct charges.

At 4.00am on January 15 1998, a squad of 25 armed police officers burst into a block of flats in St Leonards, East Sussex, looking for James Ashley. Ashley was in bed with his girlfriend, Caroline Courtland-Smith. In her testimony she told the court, "We were both naked in bed ... I awoke and heard banging, very loud banging which seemed to come from downstairs.

"I jumped out of bed. I thought we were being burgled, I heard men's voices shouting, muffled, with banging downstairs which scared me ... I shook Jimmy awake. I said, 'We're being burgled.'" Ashley got out of bed naked and walked to the door to see what was happening. At that point PC Chris Sherwood pushed open the door.

Sherwood fired from a range of two feet into Ashley's chest. Ashley died soon afterwards. Sherwood said that it was too dark to see that Ashley was naked, although Courtland-Smith spoke of the full moon being bright enough to light the room and Sherwood said he identified Ashley as the target before shooting. Sherwood said that he thought a gun was being pointed at him. No weapons were found in the flat. He was acquitted of murder on the grounds that the prosecution could not disprove his claim of having acted in self-defence.

Sherwood was later diagnosed as suffering from a form of tunnel vision. He had previously been suspended from the firearm squad, after a drunken row with his girlfriend. Sherwood was not charged for murder because, according to prosecuting QC Nigel

Sweeney, "In order to prove the crime of misconduct as alleged, it is necessary to prove beyond reasonable doubt an intentional failure. Other circumstances, such as incompetence or 'doing one's honest but mistaken best' were not sufficient to prove a misconduct charge." Therefore there was no likelihood of securing a conviction, notwithstanding the judge's summary remarks that the officers bore "a heavy responsibility" for the murder.

However, what emerged from the police's internal investigations, and was revealed in court, was the extent to which the entire operation was unsafe.

Police were told before the raid that Ashley had a previous conviction for attempted murder and had fired a shotgun at someone. This was not true. Ashley was a small-time crook. His most serious conviction was for manslaughter, after a man he had punched in the head later died. He served two years. The ostensible aim of the raid was to retrieve a kilo of cocaine, supposedly just delivered to Ashley, a shotgun, and to arrest another man, Thomas McCrudden. No cocaine had been delivered to Ashley. There was no shotgun. McCrudden was not in the flats at the time.

The raid was the culmination of an increasingly frantic attempt to arrest McCrudden, which had seen armed officers, often without firearms authorisation, staking out the flats for some time beforehand. The police had not obtained internal plans of the building. There were five flats containing six people, but the police did not have any idea who was where.

The Sussex firearms squad was run by an incident commander who had not been trained for the job. It was dependent for intelligence on an operation run by another officer who had only been in his job a matter of days. None of the policemen had practised rapid intervention either individually or as a team. Sherwood,

for example, had never been involved in an armed entry to a building before.

The tactic for searching the flats, known as “Bermuda”, was also extremely risky. “Bermuda” was originally designed for rescuing hostages from imminent execution. Sussex Police claimed that their instructions for using “Bermuda” simply for arresting suspects came from the Royal Ulster Constabulary in Northern Ireland. The RUC deny this. Sussex Police's own memos had warned as early as 1992 that “risk factors are high and, as such, it should only be considered as a last resort.” Their specialist tactical adviser had been warned by the head of the police's National Firearms School that “Bermuda” was too dangerous for such circumstances.

Kent Police were assigned the task of the internal investigation of the murder. Even before they had begun the Chief Constable of Sussex, Paul Whitehouse, issued a press statement in which he defended the professional and competent conduct of the operation. He also asserted falsely that Ashley was wanted for attempted murder. It subsequently emerged that senior Sussex officers met with officers involved in the raid and did not mention their meetings to the Kent investigation team. The Kent officers felt that they were being obstructed in their inquiry. The head of a third force was called in.

Sir John Hoddinott, chief constable of Hampshire, found “suggestive evidence of collusion” among senior officers to conceal the extent of their knowledge. Hoddinott argued that their press statements were “effectively disinformation”. He accused Whitehouse of wilfully failing to “tell the truth as he knew it”. Whitehouse's response underlines the calculated cynicism of the whole affair: “John Hoddinott doesn't understand that a police officer can shoot somebody who is naked and unarmed without that being improper.”

The Kent report, which provided the basis for the charges of misfeasance against the officers, concluded that there was “systemic failure” in the Sussex force. On receiving the report, Sussex suspended Whitehouse for three weeks, and then issued him with a “written advice”—one of the lowest sanctions available to them.

The Kent report highlights the extent to which internal investigations are used to whitewash the activities of the police under the guise of criticism.

Kent accused Sussex of “complete corporate failure” over the operation. This served to ensure that Sherwood would not be held personally culpable for his role, hence the collapse of his murder trial. It also served to make it harder to secure other convictions. The notion of corporate responsibility for death was introduced to British law in the wake of the sinking of the *Herald of Free Enterprise* in Zeebrugge harbour. The police are, in any case, exempt from this legislation.

In the last 10 years British police have shot 41 unarmed people, 15 fatally. It has been estimated that police officers in England and Wales now shoot people once every seven to eight weeks. None of the officers has ever been convicted of a criminal offence. The vast majority have never been prosecuted.

James Ashley's family are considering a private case against the police.



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