Britain: Police chief apologises to family of man shot dead by officers

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The Chief Constable of Sussex Police, Ken Jones, has made an unprecedented apology to the family of an unarmed man shot dead by police officers during a raid five years ago. The family has continued to call for a public inquiry, both into the killing and also into its subsequent investigation by the police. Four officers were cleared of misconduct charges relating to the planning of the police raid. Murder charges were dropped against the officer who fired the fatal shot.

On January 15, 1998, James Ashley was in bed with his girlfriend Caroline Courtland-Smith in a flat in St Leonards, East Sussex. At 4 a.m. a squad of 25 armed officers burst into the block of flats looking for him. Courtland-Smith was awakened by the commotion. She told the court hearing "We were both naked in bed ... I awoke and heard banging ... 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. PC Chris Sherwood pushed open the door. Sherwood fired at a range of two feet into Ashley's chest. Ashley died shortly afterwards.

Sherwood claimed that it was too dark to see that Ashley was naked. Courtland-Smith, though, described the full moon being bright enough to light the room. Sherwood also claimed to have identified Ashley as the target before shooting. Sherwood said he thought a gun was being pointed at him, although no weapons were found in the flat. Sherwood was acquitted of murder on the grounds that the prosecution could not disprove his claim of having acted in self-defence.

Sherwood had previously been suspended from the firearms squad after a drunken row with his girlfriend. He had never taken part in an armed entry into a building before.

The subsequent investigation and court cases revealed how unsafe the entire operation was. They also highlighted the inappropriate firearm tactics being employed by Sussex police.

The officers were told in their briefing that Ashley had a previous conviction for attempted murder and had fired a shotgun. This was not true. The most serious conviction against Ashley, a petty crook, was manslaughter, after a man he punched in the head subsequently died. He served two years.

The officers were told that they were attempting to retrieve a shotgun and a kilo of cocaine just delivered to Ashley, and that they were to arrest another man, Thomas McCrudden. No cocaine had been delivered to Ashley, there was no shotgun, and McCrudden was not in the building. The attempts to arrest McCrudden had already seen armed officers, often without firearms authorisation, staking out the flats for some time. The police had no internal plans of the building, and no idea where any of the six residents were in the five flats.

The Sussex firearms squad was run by an incident commander who was not trained for the job. It relied for intelligence on an operation run by another officer who had only been in his job a matter of days. None of the officers had practised rapid intervention as a team. Most had not trained as individuals.

The tactic for searching the flats, known as Bermuda, was also unsafe. Sussex's own memos 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, which was originally designed for rescuing hostages from imminent execution, was too dangerous to use in such circumstances.

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Ken Jones, in his statement to the family, stated that "James should not have died but—and this will be of small comfort to his loved ones—his death has resulted in safer firearms procedures for us all". He admitted that the management of information was flawed, and described the armed response as "unnecessary and disproportionate".

This marks the belated beginning of a damage limitation exercise. Caroline Courtland-Smith is continuing her damages claim for assault, false imprisonment and misfeasance in public office. The response to the killing, particularly from Sussex's then Chief Constable Paul Whitehouse, made this a very high profile case that required the personal intervention of the Home Secretary. The family's continued call for an inquiry not just into the shooting, but into the subsequent cover-ups during its investigation, again threatens to make this case embarrassingly public.

While Ken Jones talks of the creation of safer firearms procedures, he has nothing to say about the way in which the internal investigations into the killing were conducted. Kent police were initially assigned the internal investigation of the murder. Even before they had begun 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 later emerged that senior Sussex officers met with officers involved in the raid, but did not mention these meetings to the Kent investigation team. The Kent officers, feeling that they were being obstructed in their inquiry, called in the head of a third force.

Sir John Hoddinott, chief constable of Hampshire police, found "suggestive evidence of collusion" among senior officers to conceal the extent of their knowledge. He called their press statements "effectively disinformation". He accused Whitehouse of wilfully failing to "tell the truth as he knew it". Whitehouse's response dismissed any concerns about the police's conduct: "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. With the case continuing to cause embarrassment in government circles Home Secretary David Blunkett called for Whitehouse to be sacked. In 2001 Whitehouse resigned, but remained bullish in denying any wrongdoing. He said that he was tired of being misrepresented.

Jones' apology needs to be seen in the light of the continuing embarrassment this case represents, although the police investigation was geared towards ensuring that there could be no calling of the police to account. The Kent report blames Sussex police for "complete corporate failure" over the operation. This ensured that PC Sherwood could not be held personally culpable for his role in the killing, hence the collapse of his murder trial. It also served to make it harder to secure other convictions. The police are exempt from legislation on corporate responsibility for death, so any recommendation of corporate failure would introduce a culpability that could not be proved.

In fact, the prosecution used this to not present evidence at the misconduct trial. As the prosecuting QC Nigel Sweeney put it: "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. Ken Jones' apology seems further designed to deflect such weight of responsibility from police officers.

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