

## Justice session: Deborah Coles Paper

Regional Meeting on the International Decade for People of African Descent  
23-24 November 2017

### SLIDE 1 (title)

### SLIDE 2 (intro)

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#### Introduction

- INQUEST is an NGO that works with the families of those who die in all forms of custody and detention: police, prison, immigration, mental health. We also work on deaths raising concerns about state and corporate accountability like Hillsborough football disaster and Grenfell tower fire
- Our work with bereaved families informs all our evidence based research, policy and parliamentary work for social justice and change. We hold the state [and private companies] to account for human rights violations/dangerous practices.
- We monitor the investigation processes following custodial deaths and have identified their weaknesses in holding the state to account to the rule of law and the failure to properly investigate, prosecute and punish excessive or unlawful use of force.
- Families are at the heart of our work and their campaigns have been important in highlighting the alarming number of deaths.

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- INQUEST situates custodial deaths in their broader social, economic and political context – many impact on policies on public health, mental health and additions, poverty and inequality and racism and discrimination. – must acknowledge the history of slavery and colonialism as the broader context of institutional racism.
- There is a pattern of cases synonymous with state violence, racism, and impunity.
  - [PICTURED] Gareth Myatt 15 year old restrained to death by G4S staff in a child prison, Jimmy Mubenga restrained to death by G4S staff whilst trying to deport him, Rocky Bennet restrained by staff at a psychiatric hospital, Sarah Reed a young woman remanded for psychiatric reports who died because of the neglect and ill treatment by prison and healthcare at Holloway prison. Prince Fuso died of hyperthermia having been left naked in a Harmondsworth immigration removal centre cell for 6 days without bedding or a mattress [not pictured],

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- Last year saw the highest number of self-inflicted deaths in prisons in England and Wales on record.
- This year there has been the highest number of deaths in UK immigration detention centres on record. A third of all deaths in UK immigration detention since 2000 have been of African or Caribbean people.

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- For the purpose of this presentation I am concentrating on police related deaths.
  - [PICTURED], Sean Rigg and Olaseni Lewis: both men in mental health crisis restrained to death by police officers, Mark Duggan, unarmed and shot dead by police. Sheku Bayoh died after being arrested and restrained by police officers in Kirkcaldy, Scotland.
- Our monitoring shows that they are not isolated individual tragedies but part of a systemic problem and the result of structural factors.
- For three decades INQUEST has worked with families whose relatives' have died following the use of police firearms, Tasers, long handed batons, restraint equipment, restraint techniques resulting in asphyxia and the inhibition of the respiratory system.

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- A disproportionate number of people from BAME communities and those with mental health problems have died after the use of unlawful or excessive force. You are two times more likely to die following the use of force if you are from a BAME background, in particular young African and Caribbean men subject to deadly use of force by restraint and restraint equipment.
- Many of the cases INQUEST has worked on have presented a disturbing picture of violence and racism and inhumane attitudes towards people in distress ascribing to black people stereotypical characteristics of extraordinary strength, dangerousness and criminality trying to demonise and blame the victim for their own death. The racial stereotype of the black man as 'big, black and dangerous,' 'violent' and 'volatile', when woven into police culture and practice can lead to the disproportionate and fatal use of force.

- Another group over represented are people with mental health needs where negative imagery once again informs their treatment - the stereotype of the mentally ill as 'mad, bad and dangerous'. INQUEST is therefore particularly concerned with the double discrimination experienced by black people with mental health issues.

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- An obsession with dangerousness can mean that the focus becomes the risk posed by the individual to the exclusion of consideration for their welfare and safety. Comments are frequently heard about the restrained person having "super-human strength" "the strongest man I have come across" and being "impervious to pain".
- The pernicious combination of such perceptions towards BAME men who are also mentally ill can create situations in which the person being restrained is dehumanised, their life devalued. This is encapsulated in the tragic and brutal death of Olaseni Lewis, a 23-year-old man in mental health crisis in a mental health setting who was restrained by 11 police officers shackled with his hands in two sets of handcuffs and his legs in two sets of restraints whilst medical staff stood by.
- Although these are a small proportion of the total number of deaths, these by their very nature continue to be the most controversial. These deaths connect with the black community's experience of structural racism and over-policing and criminalisation. The fatal shooting of Mark Duggan a black man from Tottenham, a community at the sharp end of police harassment and previous police related deaths, ignited frustration and anger and saw widespread disturbances spiral across UK in 2011.

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- Looking at the use of force figures recently disclosed by Met Police the figures are further illustrative of this racist and discriminatory policing.
- Between April and June 2107 of nearly 13,000 incidents of force used by individual officers recorded over half was on BAME people, 36% on black people, 10% on Asian people, the majority on men. Looking at statistics released by an FOI on the use of the application of spit hoods, (a use reminiscent of slavery) a three-month trial revealed among men it was used against 23% were black, 15% Asian and a shocking statistic that of 11 women it was used against 8 were black women

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- The recent deaths of four young black men after restraint by police officers and members of the public, and a number of negative decisions following of prosecutions and disciplinary proceedings on other police related deaths, have kept this issue on the political and community agenda.
- The recent publication of the Angiolini Review on deaths in police custody commissioned by Government reinforced INQUEST findings about disproportionality and deaths and concerns about accountability. Concerns raised included a lack of parity of funding and access to justice for bereaved people, police conferral, the use of ex police officers by the IPCC (independent investigation body) and failure to investigate deaths as if a potential crime, delays in legal process and a recognition about racial disproportionality.
- Inquests held into some of these deaths have returned conclusions highly critical of the 'unlawful' and 'excessive' or 'disproportionate' force used. However criminal charges are rare.

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- There has never been a successful prosecution for manslaughter and police at an individual and corporate level are rarely held to account. Since 1990, there have been 9 unlawful killing verdicts/findings returned by juries at inquests into deaths involving the police and 1 unlawful killing finding recorded by a public inquiry into a police shooting, other findings critical of the force used, none of which have yet resulted in a successful murder or manslaughter prosecution.
- This remains one of the most contentious issues and highlights significant shortcomings in the investigating, prosecuting and learning mechanisms. Police conduct which is potentially criminal is not subjected to the same investigative steps as criminal offences.
- At its core are concerns that the rule of law does not apply to the police for abuses of power in the same way as it does to an ordinary citizen. The central experience of impunity and the damage it does to victims, to public confidence and trust and to the very fabric of the rule of law and democratic accountability cannot be overstated.
- The existence of effective mechanisms to tackle police misconduct is an important safeguard against ill-treatment of persons deprived of their liberty. In those cases where evidence of wrongdoing emerges, the imposition of appropriate disciplinary and/or criminal penalties can have a powerful dissuasive effect on police officers who might otherwise be minded to engage in ill-treatment.

- The right to life is a fundamental right and following a death there needs to be a prompt, effective, independent investigation. The UK Government claims transparency and accountability for its institutions/law enforcement agencies.
- However, families still have to fight at all stages of the process against a culture of institutional denial, delay and defensiveness. This is anathema to accountability and frustrates the opportunity to learn from mistakes and protects those responsible for ill treatment or failings in care. On the rare occasions, there have been criminal prosecutions this has often been down to the pressure brought to bear by the family, INQUEST and their lawyers. The reality is for bereaved families too many investigations remain dysfunctional.

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### **Conclusion**

- Deaths in custody are a global human rights issue, and we have seen this from the protests in the US and the Black Lives movement, to protest against aboriginal deaths in Australia, to the issues under discussion at this conference. This is a serious human rights issue. It is bereaved families, human rights lawyers, NGO's who have placed state agencies under public scrutiny and focused on the responsibility and culpability of custodians.

Learning from INQUEST's experience what is needed in any system is:

- Resources available to families for specialist help and legal representation after a custodial death from NGO's and specialist lawyers
- Critical independent voices – vital role of civil society activism which can impact change
- A robust independent and effective investigatory body in which victims and the public have trust
- Use of force data and deaths in custody disaggregated by ethnicity
- Tackling discrimination, through recognition of the disproportionate number of deaths of BAME people following use of force and the role of institutional racism, both within investigations and other legal processes and police training.
- Police must be held to account at an individual and senior management level and sanctions brought against those who abuse their powers.
- An oversight framework by which compliance with post death actions and recommendations to learn from past errors are monitored, audited and followed up.

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