

# **FINAL REPORT**

**Report into the Independent Police Complaints Commission (IPCC)  
Independent investigation into the appropriateness of the West Midlands  
Response and the circumstances immediately prior to the death of  
Aaron James.**

**IPCC Reference: 2005/01279.**

## 1. Introduction

1.1. This report relates to the Independent Police Complaints Commission (IPCC) independent investigation into the appropriateness of the West Midlands Police response and the circumstances immediately prior to the death of Aaron Luke JAMES born 7<sup>th</sup> October 1987 (07/10/1987) of Melbourne Avenue, Newtown, Birmingham.

1.2. The deceased is : Aaron Luke JAMES, Born 7.10.1987

A mixed race male

Father [REDACTED]

Mother [REDACTED].

He was living at Melbourne Avenue, Newtown, Birmingham at the time of his death.

1.3. Aaron JAMES died in the early hours of the morning of Monday 24<sup>th</sup> October 2005 from gunshot wounds. As a result of his death West Midlands Police commenced a murder enquiry led by [REDACTED]  
[REDACTED]

## 2. Referral to IPCC

2.1. At 1.30am (0130) on Monday 24<sup>th</sup> October 2005 (24/10/2005) West Midlands Police made a voluntary referral of the incident to the IPCC. As a result of this referral IPCC Deputy Senior Investigator James DONAGHY and IPCC Investigator Anna DAWSON attended Queens Road Police Station, Birmingham and commenced an assessment of the incident. This consisted of preserving evidence, ensuring that adequate provisions had been made to protect any potential crime scene, and ensuring all relevant enquiries had been commenced by police, before the method of investigation was decided by the IPCC Commissioner. This was the initial IPCC response to ensure the integrity of the investigation in order to ensure public confidence.

2.2. As a result of the scene assessment IPCC Commissioner Amerdeep SOMAL subsequently decided that the IPCC would conduct an independent investigation into the appropriateness of the West Midlands Police response. This investigation was led by IPCC Deputy Senior Investigator Robert LILLEY.

## 3. The IPCC Commissioner

3.1. The lead commissioner for this investigation is Amerdeep SOMAL.

## 4. The IPCC Investigating Officer

4.1. The IPCC Investigating Officer is Deputy Senior Investigator Robert LILLEY

5. Initial IPCC response

5.1. After the incident was referred to the IPCC by West Midlands Police, Deputy Senior Investigator James DONAGHY and Investigator Anna DAWSON attended the police station at Queen's Road, Birmingham to conduct the initial "out of hours" incident assessment.

6. Public complaint

6.1. There is no public complaint regarding the death of Aaron Luke JAMES.

7. Terms of Reference

7.1. The Independent Police Complaints Commission (IPCC) will conduct an independent investigation into the appropriateness of West Midlands Police response and the circumstances immediately prior to the death of Aaron JAMES.

7.2. The investigation will be overseen by Amerdeep SOMAL, IPCC Commissioner, and Mr R LILLEY will be the senior investigating officer.

7.3. The investigating officer will work closely with [REDACTED] who is conducting the murder investigation into the death of Mr JAMES.

7.4. The IPCC will have access to West Midlands Major Incident Room and any significant developments will be brought to the attention of the Commissioner.

7.5. West Midlands Police will have access to any material coming into the possession of the IPCC which may assist in the murder investigation.

7.6. The IPCC will issue a press release and chair a press panel with a view to reassuring the public and defusing any tension in the area.

7.7. Consultation will take place with [REDACTED] who has responsibility for community impact assessment.

7.8. The investigation will be conducted in a timely manner in order to avoid speculation and reduce tension in the area.

7.9. An investigation plan will be drawn up in support of these terms of reference.

## 8. Parallel investigation

8.1. As a result of the tragic death of Aaron JAMES, West Midlands Police commenced a murder investigation. This was led by [REDACTED] [REDACTED] of the Major Investigation Unit of West Midlands Police. It was therefore necessary to arrange an early meeting with the Senior Investigating [REDACTED]. This was done on the afternoon of Monday 24<sup>th</sup> October 2005 (24/10/2005) at Thornhill Road Police Station. It was apparent that both the IPCC investigation and the murder investigation would have common ground in that some of the witnesses for each investigation would have valuable evidence for the other. It was agreed that information would be shared and a protocol was developed and agreed. It is pertinent to note that the [REDACTED] [REDACTED] has been completely and fully co-operative to the IPCC

investigation. Information, documentation and statements were readily shared with the IPCC.

## 9. Background

9.1. In the week leading up to the death of Mr JAMES on the 24<sup>th</sup> October 2005 (24/10/2005) there had been large scale disturbances and community tension in the Handsworth/Lozells area of Birmingham. The tension was between the African Caribbean Community and the Asian community and emanated from a perpetuating rumour that a young African Caribbean girl had been “gang raped” in a shop by a group of Asian men. This led to shops and cars being burned and large scale disturbances and public disorder. The police made extensive enquiries into the alleged “gang rape” but no complaint was ever made and no evidence that such an offence had ever taken place was found. The event itself and the subsequent public disorder attracted national and international media coverage.

9.2. West Midlands Police responded with the deployment of a large number of officers to quell the disturbances. This included the deployment of armed police officers as there had been numerous reports of gangs of young men roaming the streets armed with various weapons including machetes, petrol bombs, baseball bats and firearms. Indeed, during the deployment of the police to quell the disturbances one police officer was shot and wounded in the leg.

9.3. The armed officers that were deployed were from the West Midlands Police Specialist Firearms Unit and were under the control of a ground commander of Superintendent rank.

9.4. It is in this background of community tension and public disorder that Aaron Luke JAMES came to be on the streets in the early hours of Monday 24<sup>th</sup> October 2005 (24/10/2005).

9.5. During the late evening of Sunday 23<sup>rd</sup> October 2005 (23/10/2005) armed officers were deployed to the Newtown area of Birmingham after a number of reports of youths armed with firearms being in the area.

#### 10. Circumstances leading up to the death of Aaron JAMES

10.1. At 0014 hours (0014) on Monday 24<sup>th</sup> October 2005 (24/10/2005) a black youth was seen by an unarmed police officer in the Mayfield Road area of Handsworth. He was seen to be in possession of a handgun in a plastic bag. Armed police officers were deployed to the area.

10.2. During a search of the area for this youth the firearms team received information from their control that fire fighters had been threatened by a group of youths armed with machetes, a green petrol can, other weapons and a silver coloured handgun in the Farm Street area. The firearms team were deployed in response to this report.

10.3. On the evening of Sunday 23<sup>rd</sup> October 2005 (23/10/2005) and into the early hours of Monday 24<sup>th</sup> October 2005 (24/10/2005) Aaron Luke JAMES was with a number of his friends in and around the area of his home address of Melbourne Avenue, Newtown, Birmingham. Some of these young men were armed with small knives and other weapons. One of the group, [REDACTED]  
[REDACTED]

██████████, stated the group, totalling about seven young men were roaming the streets, not looking for trouble, but says there had been trouble the previous night between young black men and young Asian men, and, if any trouble had started on this night they “would have probably got involved”.

10.4. Later, shortly after midnight, ██████████ said the group were walking along Nursery Road towards Melbourne Avenue when he saw three police vans with blue lights illuminated coming towards them. He describes these vehicles as trying to “box them in” and says it was obvious that the police wanted to speak to them. ██████████ says the group were bunched up together with Aaron in front. He then says Aaron ran off towards Melbourne Avenue and others ran after him. Whilst running off ██████████ saw Aaron running towards a white van parked in the road. Aaron was apparently trying to run around it. ██████████ looked back and saw Aaron fall to his knees and someone else apparently fell onto him, knocking him to the ground face down. As this person fell on ██████████ immediately heard a bang and saw a bright orange flash from the area where Aaron was. He knew immediately that this was a gun going off as he had seen guns go off before and that this was like a handgun going off. ██████████ ran to a local park and met up with some of the group but Aaron JAMES did not arrive. In the park one of the other persons present received a telephone call saying that Aaron had been shot in the head. He returned to the area of Melbourne Avenue and saw the police who told him there had been a major incident.

Statement

1

10.5. [REDACTED] is a station officer for West Midlands Fire and Rescue Service and commenced duty, with other fire fighters, at 6pm (1800) on Sunday 23<sup>rd</sup> October 2005, (23/10/2005), at his base at [REDACTED] Fire Station. Shortly after midnight [REDACTED] and his crew were despatched to a report of a car that had been firebombed outside [REDACTED] Farm Street, Newtown, Birmingham. They were supported by another fire crew from Aston fire station led by [REDACTED]. On arrival at the scene they discovered a vehicle which showed fire damage but it appears the fire had been extinguished naturally by the heavy rain that was falling. The vehicle was examined and declared safe.

Statement  
2

10.6. At this time both fire appliances from Handsworth and Aston were on the scene and parked facing each other. A number of fire fighters from each appliance were standing in the vicinity of the damaged vehicle. As [REDACTED] were discussing the incident a group of between 10 - 15 youths with dark clothing and hooded tops came through an alleyway. When they got a little closer it was apparent these people were covering their faces with scarves and hoods. In view of the incidents from the previous nights the order to withdraw from the area was given.

10.7. As the fire fighters returned to their appliances the group went into the nearby park but a small number came back to the fire appliances. The group were heard to say "there's gonna be trouble later". One of the youths was in possession of a black pipe or stick and commenced striking the Aston fire appliance. [REDACTED] was about to get into the Aston fire appliance when one of the youths shouted to him "you'd better [REDACTED] off; it's going to go down". As the youth said this he

Statement  
3

held his right hand up in the air and displayed a handgun. [REDACTED] [REDACTED] climbed inside the appliance and saw the same youth was at the driver's window and clearly pointing the handgun at the driver, fire fighter [REDACTED]. [REDACTED] saw the barrel of the weapon had a large opening at the end so he knew it was not a BB gun. At this time there was a lot of banging on the side of the fire appliance from the group of youths. [REDACTED] notified the Fire Control Room of what had happened and requested the police attend.

Statement

4

10.8. [REDACTED] is a fire fighter employed by West Midlands Fire and Rescue Service and was driving the Handsworth fire appliance when he saw one of the youths around the Aston appliance waving a silver coloured item in the air. He looked more closely and saw it was a silver coloured handgun. As he drove off he saw this youth point the silver coloured handgun towards the driver of the Aston fire appliance.

10.9. Fire fighter [REDACTED] is stationed at Aston fire station and was the driver of the Aston fire appliance that attended the Farm Street incident. Whilst at the scene he saw a group of youths coming towards them. He saw one youth had what appeared to be a golf club held by his side, others had weapons including a green petrol can. He saw one of this group lift up his top and he saw what appeared to be the handle of a handgun in his waistband.

Statement

5

10.10. Another member of the group tapped the windscreen of the fire appliance with what appeared to be a baseball bat. The youth who was armed with what was thought to have been a handgun then, for a few seconds, held out his arms in a confrontational gesture before moving back into the crowd.

10.11. Other fire fighters in the Aston crew also saw the youths who were covering their faces with hoods and scarves. All say they were armed with various weapons and frightened for their safety.

10.12. Fire fighter [REDACTED] is stationed at Aston and was part of the fire crew dispatched to deal with the fire. He saw a group of youths with hooded tops and scarves covering their faces. These youths began to mill around the fire appliance and he saw that one was armed with an iron bar and another with a machete measuring about 3 feet long. As he watched the group he heard shouts of "[REDACTED] off" and "get out here". His attention was then drawn to one of the youths who raised his top and remove a silver coloured handgun with a dark handle from the waistband of his trousers. This youth then pointed the gun directly towards [REDACTED]. He remained pointing the weapon towards him for a couple of seconds when [REDACTED] attention was drawn to a banging noise and saw another youth striking the front windscreen of the appliance with an iron bar. He also saw the machete being swung directly at the window next to him. All the fire fighters were frightened for their safety at this time.

Statement  
6

Statement  
7

10.13. Fire fighter [REDACTED] is stationed at Handsworth fire station and attended the incident in Farm Street. He also saw the youth with the silver handgun which was being pointed directly towards the driver of the Aston fire appliance.

Statement  
8

10.14. Fire fighter [REDACTED] is stationed at Handsworth fire station and attended the report of the car fire in Farm Street. He was the driver of the Handsworth fire appliance and saw a group of youths. He saw they all had hooded tops with hoods up and scarves across their faces. He saw one of this group was carrying a green coloured petrol can, another had what appeared to be an iron bar and another a long machete with a blade about two feet long and two inches wide. The youths gathered around the fire appliances and [REDACTED] saw the youth with the machete waving it above his head and then strike blows to the Aston fire appliance.

Statement

9

10.15. Fire fighter [REDACTED] is stationed at Aston fire station and attended the incident in Farm Street. He saw a group of youths wearing hooded tops and caps. He saw they were carrying sticks or bars, one appeared to be a tyre lever and one youth was carrying a large machete. As they were around the appliance he saw some of the youths striking the fire appliance with the weapons they were carrying.

10.16. Fire fighter [REDACTED] is stationed at Aston fire station and attended the incident in Farm Street. She saw a group of youths coming towards them. She says they were wearing scarves or masks to cover their faces. She heard one youth shout something like "we're going to blow this town up tonight". She made her way back to the fire appliance and saw one youth in the group carrying a green petrol can on his right shoulder. She also saw others in the group waving things in the air but she is unable to say what. As she climbed inside the fire appliance she could see these youths flailing long implements like metal bars, sticks and baseball bats.

10.17. The fire service control alerted West Midlands Police concerning this incident.

Statement  
10

## 11. The Police Response

Statement  
10a

11.1. In the week leading up to the death of Aaron JAMES there had been community tension and public disorder. There had been numerous reports of groups of youths armed with an array of weapons, including firearms. On the evening of Saturday 22<sup>nd</sup> October 2005 (22/10/2005) an unarmed police officer in a group of officers deployed in response to public disorder was shot and injured in the leg.

11.2. A 'gold' group was set up and West Midlands Police engaged with other partners and community leaders in an attempt to restore order and reduce tension.

11.3. In view of the escalation of violence and disorder [REDACTED] [REDACTED] authorised the use of police firearms to respond to spontaneous firearms incidents. This response was called Operation JAVARI.

11.4. At 6pm (1800) on Sunday 23<sup>rd</sup> October 2005 (23/10/2005) [REDACTED] commenced duty as designated firearms Silver Commander with a team of 12 specialist firearms officers, a firearms and explosives dog handler and a specialist firearms officer / driver from Staffordshire Police. [REDACTED] [REDACTED] had a tactical advisor, [REDACTED] and both these officers gave the firearms team a briefing on intelligence available at the time, and the details of the authority to arm. There was no specific intelligence available against any named individual.

The firearms team were to remain on standby at the Firearms Operations Unit and would only deploy to specific firearms incidents.

11.5. At 0014 hours (0014) on Monday 24<sup>th</sup> October 2005 (24/10/2005)

██████████ received a request to deploy the firearms team to a rendezvous point at Heathfield Road at its junction with Westminster Road, Handsworth after a police officer had seen a young black male who had a handgun in a plastic bag. The firearms team, in a convoy of three armoured police Land Rovers, commenced a search of the area in an attempt to trace this man. The search proved fruitless, but during the course of this search a further radio communication to ██████████ and the firearms unit alerted them to the report of youths armed with machetes, green petrol can and a firearm received from the West Midlands Fire and Rescue Service control room concerning the incident at Farm Close.

Statement  
11

Statement  
11a

11.6. The firearms units made their way towards Farm Street, Newtown.

The three police armoured Land Rovers were still in convoy and travelling along Anglesey Street towards Nursery Road. ██████████ saw a group of approximately 8 youths dressed in dark clothing, hooded tops and with scarves covering their faces. He also saw some of these youths had articles in their hands. The vehicle searchlight was turned on and directed towards this group of youths. On seeing the searchlight the youths started to run into Melbourne Avenue, Newtown.

11.7. [REDACTED] and his tactical advisor [REDACTED] immediately discussed the options on deployment and, as a result of the firearms threat, it was agreed that the armed police officers would deploy and arrest the youths at gunpoint. This message was relayed to the rest of the team.

11.8. The convoy of vehicles drove into Melbourne Avenue in pursuit of the group of youths who had run off. Police Constable [REDACTED] was the driver of the first vehicle in the convoy. He had seen the group of 8 or 9 youths wearing masks and hoods and saw one had a green petrol can at the junction of Nursery Road. He states he saw the youths run off in Melbourne Avenue and one youth was wearing a dark top, and grey trousers. Police Constable [REDACTED] attention was drawn to this youth as he appeared to stop and collide with a white coloured LDV van, [REDACTED] [REDACTED] which was parked at the side of the road. Police Constable [REDACTED] drove past this youth in pursuit of the others but they had scattered at the bottom of Melbourne Avenue.

Statement  
12

11.9. Police Constable [REDACTED] is trained in first aid and fast aid. Fast aid is a more advanced version of first aid. After Police Constable [REDACTED] returned to where the youth had fallen he saw Police Constable [REDACTED] treating the youth. This youth was Aaron Luke JAMES. Police Constable [REDACTED] then assisted Police Constable [REDACTED] in the treatment of Aaron. He could hear [REDACTED] breathing and gurgling from his mouth, but his breathing was laboured. He also saw that Aaron was bleeding from a wound behind his ear. The two officers knew that Aaron was seriously injured and an ambulance was requested. The officers discussed the treatment of Aaron and agreed that the insertion of a pharyngeal tube in his nostril may assist his breathing. Police Constable

Statement  
12a

Statement  
13

████████ lubricated such a tube and inserted it into Aaron's right nostril. This appeared to ease Aaron's breathing. Police Constable ██████████ then administered oxygen to Aaron at a rate of 15 litres per minute and ██████████ was capable of inflating the oxygen bag. At this time Aaron was seen to have a small hole in his shoulder. The officer cut away his top and saw two holes in his shoulder about 8-10mm in diameter. It appeared that a bullet had entered his shoulder, exited about 100mm higher and entered his skull. A short time later an ambulance, call sign ██████████, attended the scene. Aaron was loaded onto a stretcher and taken by ambulance to City Hospital, Birmingham.

Statement  
13a

11.10. Police Sergeant ██████████ was in the second of the police vehicles in the convoy of three that attended the incident. As his vehicle turned into Melbourne Avenue he saw a group of 7 to 8 males sprinting away from him. About halfway down Melbourne Avenue he saw one of the youths fall to the ground, near to the rear of a white van. It appeared that he had slipped. He was face down on the ground and virtually underneath the rear offside of the white van. As the officer got closer he saw that the youth's legs were twitching and shaking. The vehicle containing Police Sergeant ██████████ drove past the youth on the ground and went after the other youths who had continued to run off. The officer then heard on his radio that the person on the floor, Aaron JAMES, had been shot. The firearms commander then instructed the firearms officers to put a protective cordon around Aaron and the officers who were treating him as it appeared there was a gunman in the area.

Statement  
12

Statement  
12a

11.11. Police Constable [REDACTED] was the driver of the third vehicle in the convoy in Melbourne Avenue. He saw a white coloured LDV van [REDACTED] parked on his nearside and facing away from him. He saw two police firearms officers, Police constable [REDACTED] and Police Constable [REDACTED] near to the rear of this van. He saw these officers pull somebody from under the rear of the white van. He drove his Land Rover forward to illuminate the scene. Police Constable [REDACTED] then heard on his radio that a first aider was required as the youth on the floor had been shot. Police Constable [REDACTED] immediately got out of his vehicle to assist. He saw the youth, Aaron JAMES, had a head injury near to his right ear. Aaron was on his back, he was having difficulty breathing and his airway was noisy. He turned Aaron on his side and drained fluid from his mouth. Police Constable [REDACTED] then performed a jaw thrust to aid Aaron's breathing. Aaron's eyes were open, his pupils dilated and he was unresponsive to verbal commands or pain. Police Constable [REDACTED] was then assisted by Police Constable [REDACTED] until the ambulance arrived. He supports the account of treatment by Police Constable [REDACTED].

Statement  
13

Statement  
13a

11.12. Police Constable [REDACTED] was part of the Firearms Unit in Melbourne Avenue and deployed from the second vehicle in the convoy. He had heard the instruction to deploy and arrest this group of young men. As he deployed he saw a young man lying in the road next to a white van. He saw it was a mixed race male aged about 20 years. PC [REDACTED] approached this young man with his police issue MP5 carbine pointed towards the young man on the floor. As he neared him he immediately realised he was injured. He pulled the young man now known to be Aaron from underneath the vehicle and heard his breathing was loud and gasping. He turned Aaron over

Statement  
14

Statement  
14a

and saw an injury to his skull near to his right ear. Aaron had a fixed stare and did not respond to verbal commands. [REDACTED] immediately called for an ambulance and first aid assistance. He was joined by Police Constable [REDACTED] and Police Constable [REDACTED]. PC [REDACTED] then took up a position to protect these officers whilst Aaron was being treated.

11.13. Police Sergeant [REDACTED] [REDACTED] was part of the Firearms Unit in Melbourne Avenue and deployed from the third vehicle of the convoy. He also saw the young man lying almost underneath the white van. He saw Police Constable [REDACTED] administering first aid and fast aid to Aaron. As this happened Police Sergeant [REDACTED] became aware of a man from [REDACTED] Newtown. He was very upset and emotional and shouted to the officer "I want to see him. Is it Aaron? Is it Aaron?" When asked what had happened, this man replied, "All I heard was a pop and a group walk off down there". He was asked about numbers and descriptions but all he could say was there were more than three in the group. He indicated they had gone towards the grassed area towards Farm Street.

Statement  
15

Statement  
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11.14. Police Sergeant [REDACTED] is a member of the Firearms Unit and was the tactical advisor to Superintendent [REDACTED] on the night of 23rd to 24<sup>th</sup> October 2005 (23/10/2005) to (24/10/2005). He was positioned in the lead Land Rover in the convoy. He saw a group of about 8 youths in dark clothing and with hoods up. They were holding items including a green petrol can. Police Sergeant [REDACTED] discussed the tactical options with Superintendent [REDACTED] and in view of the firearms threat it was decided to deploy the armed officers to arrest this group.

Statement  
16

Statement  
16a

11.15. Police Constable [REDACTED] [REDACTED] is a Staffordshire Police Officer who was the driver of the second vehicle in the convoy. He was seconded from the Staffordshire Police Firearms Unit to assist the West Midlands firearms team. As he turned into Melbourne Avenue he saw a group of about 8 youths running off. He saw one of the youths fall to the floor next to a white van. As he neared this young man he saw his legs were twitching and shaking. He drove past this youth and saw other officers with him. He then assisted in putting a protective cordon around the officers treating Aaron JAMES.

Statement  
17

Statement  
17a

11.16. Police Constable [REDACTED] was a member of the Firearms Unit deployed in Melbourne Avenue and was in the rear of the second vehicle in the convoy. He heard Police Sergeant [REDACTED] give the instruction to deploy and detain the group of youths in Melbourne Avenue. As he got out of the rear of the vehicle he saw Aaron JAMES lying near to a white LDV van registered number [REDACTED] [REDACTED]). He was with Police Constable [REDACTED]. He approached Aaron with his MP5 carbine pointing towards him and challenged him at gunpoint. At this time he believed Aaron had fallen. He then realised Aaron was seriously injured and summoned first aid and fast aid assistance.

Statement  
18

Statement  
18a

11.17. Police Constable [REDACTED] and Police Constable [REDACTED] [REDACTED] were both part of the Firearms Unit in Melbourne Avenue. They were deployed from the third vehicle in the convoy and saw other officers treating Aaron by the white van. They commenced a search of nearby gardens and found a green petrol can, two silver coloured flick knives and a rubber mallet in the street.

Statement  
19

Statement  
19a

11.18. Police Constable [REDACTED] and Police Constable [REDACTED] were both part of the Firearms Unit in Melbourne Avenue. They deployed as requested by Police Sergeant [REDACTED]. They did not deal with Aaron JAMES but assisted in the protective cordon set up around Aaron and the officers treating him.

Statement 22  
Statement 22a  
Statement 23  
Statement 23a

## 12. The Ambulance Crew

12.1. [REDACTED] is a paramedic with the West Midlands and Shropshire Ambulance Service NHS Trust. At 12.42am (0042) on Monday 24<sup>th</sup> October 2005 (24/10/2005) she was on duty with ambulance technician [REDACTED] when she attended Melbourne Avenue, Newtown, Birmingham. On arrival at the scene she saw Aaron JAMES lying on his back in the road. He was being attended to by two armed police officers who were advanced first aiders. A nasal airway had been fitted to assist Aaron's breathing and oxygen was being given by one of the officers. She saw a large wound behind Aaron's ear and brain matter coming out. The injury was consistent with being shot. Aaron was unconscious, with a pulse of 62 beats per minute, 6 breaths per minute and his heart rate was normal. He was placed on a stretcher, put in the ambulance and taken to hospital. On arrival at the hospital Aaron was handed over to the alert team.

Statement 33

12.2. [REDACTED] is an ambulance technician with the West Midlands and Shropshire Ambulance Service NHS Trust. At 12.42am (0042) on Monday 24<sup>th</sup> October 2005 (24/10/2005) he was in company with ambulance paramedic [REDACTED] in ambulance call sign [REDACTED]. They attended Melbourne Avenue, Newtown. He was the ambulance driver and on arrival at the scene saw the casualty lying on his back on the ground, being attended to by police officers.

Statement 34

He saw they were giving Aaron oxygen. He collected a stretcher from the ambulance and put Aaron into the ambulance. He then drove to the hospital where Aaron was handed to the alert team.

13. The arrests of [REDACTED] born 5<sup>th</sup> June 1981 (05/06/1981) and [REDACTED] born 23<sup>rd</sup> July 1986 (23/07/1986)

13.1. As armed police officers treated the seriously injured Aaron JAMES, a containment operation commenced with the other armed officers forming a protective cordon around them. A request for other unarmed officers was also made to attend the incident to assist in the preservation of the scene.

13.2. During this time Police Sergeant [REDACTED], Police Constable [REDACTED] and Police Constable [REDACTED] saw a young man named [REDACTED] cross from one alleyway to another across Melbourne Avenue. The officers went after this man and saw him standing, smoking a cigarette. He was challenged at gunpoint, and searched but no weapon was found. He was questioned about his movements and gave a story that he was going to collect his bicycle from a friend who had borrowed it earlier. He was dressed in a black hooded top, black jeans and black training shoes. He was compliant but vague in his answers. The officers told him they were not satisfied with his account. He was arrested on suspicion of attempted murder. He was handed to unarmed police officers and was taken to the police station. This arrest occurred at 0040 hrs (0040) on Monday 24<sup>th</sup> October 2005 (24/10/2005).

Statement  
12  
Statement  
20

13.3. At 1am (0100) the same day officers saw [REDACTED] walking along Melbourne Avenue towards the scene. He had a mobile telephone to both his ears. He was saying "someone has been shot. Someone has been shot". He was questioned about how he knew someone had been shot and gave conflicting accounts. He was excitable, talking quickly but on edge. He was not aggressive. He was also arrested on suspicion of attempted murder and taken to the police station.

13.4. Later the same day, both of these young men were questioned by detectives from the murder investigation team. At that time there was insufficient evidence to connect either man to the death of Aaron JAMES and they were released from custody.

#### 14. Significant witnesses

14.1. There were a number of significant witnesses involved in the incident, some of whom would not talk to the police. After discussions with the police SIO, [REDACTED], it was agreed that IPCC investigators would interview these witnesses. I will expand on this later in the report.

14.2. On the night that Aaron died he was part of a group seen to run off by police. The murder enquiry team identified one of the group to be [REDACTED] who was a friend to Aaron JAMES and lived nearby. Detectives conducted a video and audio recorded significant witness interview with this young man. His mother was also present at the interview. It is important to note this young man was not under arrest but due to his age and the nature of his evidence he was treated as a significant witness. [REDACTED] stated he was with Aaron and others in Nursery Road. He had received a telephone call earlier in

the evening from Aaron asking him to meet him and bring a petrol can. [REDACTED] did so, taking a green coloured petrol can which he says was empty. He says he gave this to Aaron JAMES. He says the group walked around for a while, talking but he does not name any of the group except Aaron and [REDACTED]. He says the group were in Nursery Road when he heard footsteps and saw figures behind so the group ran. He saw two people fall to the ground and he heard a bang. He ran off and went home. It was later he heard Aaron had been shot.

14.3. [REDACTED] was a friend of Aaron JAMES and made a statement to the police describing the night's events as outlined in the brief circumstances earlier in this report. He subsequently made a second statement to the police which expands on the first statement. It must be emphasised that [REDACTED] did not lie in his first statement but did not give the police all of the information and evidence that he had in his possession. In the further statement he says that after he saw Aaron fall and the second person fall over him. He does not know who this person was. He heard a bang and saw a puff of smoke between the two people. He ran to an alleyway between Roslyn Grove and Ventnor Avenue where he saw [REDACTED]. [REDACTED] kept asking where Aaron was but no one knew. [REDACTED] then produced a silver coloured handgun but [REDACTED] did not know where it was from and had not seen it before. [REDACTED] said he thought the gun was on safety. [REDACTED] was shaking and said he had fired the gun but could not understand why as it was on safety. They walked off but [REDACTED] left him taking the gun with him.

Statement  
26

Statement  
26a

14.4. [REDACTED] was another friend of Aaron JAMES and was part of the group walking around the area that night. He names others in the group including [REDACTED]. He describes seeing a number of police vehicles with spotlights on and fitted with bullet proof windscreens so he assumed they were armed police. The police shone the spotlight on them and Aaron told everyone not to run or the police will think they had done something wrong. The police vehicles tried to block the group in and they ran. He saw Aaron and [REDACTED] collide near to the white van. He heard a bang which he said was like a 'pop' but not loud and saw a cloud of smoke between them. Aaron fell to the ground but [REDACTED] put his hands down and scrambled away. During the whole time [REDACTED] was with [REDACTED] he never took his right hand out of his right pocket, even when running off. He later heard Aaron was dead.

14.5. As alluded to previously there were a number of witnesses who refused to talk to the police. There were four members of the same family and another man who lived near to the scene. These witnesses came to the notice of the IPCC through a local community leader, [REDACTED], head of a church group in the area. He told IPCC Deputy Senior Investigator Robert LILLEY that these witnesses had seen armed police officers shoot Aaron JAMES in cold blood and added that they were credible and believable witnesses. He had visited them at their home address and said the view from their home address overlooked the scene of the shooting. He insisted the family would not talk to the police. It was decided that IPCC investigators would take statements from these witnesses at a solicitor's office in Birmingham. At the outset the witnesses were told that the statements would go to the police.

14.6. [REDACTED] lives with her children in Melbourne Avenue, Newtown. On the evening of Sunday 23<sup>rd</sup> October 2005 (23/10/2005) to Monday 24<sup>th</sup> October 2005 (24/10/2005) she was at home listening to music. Sometime after midnight she heard the sound of a helicopter. She looked out and saw the light from the helicopter shining down onto Nursery Road. She believed this to be a police helicopter. She was joined by her son, [REDACTED]. She did not see any police vehicles at this time. She then saw five boys wearing black hats and coats with two also wearing black gloves, running from the alley from the direction of Nursery Road. She saw one of these boys carrying a sledgehammer. She describes one boy as "half-caste" (in her words) and the other four black. She knows the first boy as living a few houses away and this is the boy who was shot. She then moved to her daughter's bedroom in the house and joined her daughter [REDACTED]. She looked out of the window and saw three jeeps, the front one being white in colour, the other two black. None of the jeeps were marked police and none had any blue lights fitted. She says the five boys were standing outside number [REDACTED] Melbourne Avenue when the jeeps "rushed" them. She saw the boy scatter and dropped the hammer. She also noticed a green bottle containing petrol or something next to it. She then saw what she describes as a "special forces" officer jump out of the first jeep from the front passenger door. He was dressed in black with a hat with a light on it. He was holding what she describes as a machine gun with a light on it. She heard a "pow" noise which was the gun being fired. The officer was pointing the gun towards the boy on the ground. She says the boy on the ground was shaking. She then describes a second officer dressed the same as the first with a similar machine gun jump out of a black jeep. She heard a "pow" noise again and believes this officer fired his gun towards the boy on the ground. After

Statement

28

the second shot she says she saw all the “special forces” officers get out of the jeeps and went to where the boy was lying under a white van. She saw an officer turn the boy over with his foot and kneel down to apparently see if he was dead. She says a number of unarmed police officers in bright green jackets arrived later. These arrived in vehicles marked Police including a large van. She says the Special Forces officers pointed their guns at people at their windows and told them to go inside. She says the boy on the ground was lying on the floor for half an hour before the ordinary police arrived. She says none of the Special Forces officers did anything to help the boy who had been shot but just stood around talking to each other. She then says that the ordinary police put the boy on a stretcher and then put him in the back of the van they arrived in. She did not see the van marked with “ambulance”. The road was then sealed off.

14.7. [REDACTED] is the daughter of [REDACTED] and says she was at home with her family. At around midnight on Sunday 23<sup>rd</sup> October 2005 (23/10/2005) she was with her mother [REDACTED] and brother [REDACTED] in her bedroom. This is as a result of her brother telling her there was a gang on the street. She then went to her mother’s bedroom and looked out and saw two black jeeps travelling at a fast speed along Nursery Road. It was dark but streetlights were on. She described the jeeps as “Special Forces jeeps similar to the ones in Belfast when the war was going on”. She saw a gang of boys 6 to 10 in number. She saw one youth had a stick and another a green petrol can. She then saw a white jeep turn into Melbourne Avenue from Nursery Road. It had orange and white markings near the wheel but no writing to say “police” on it. The black jeeps were the same. She says the black jeeps stopped at the end of Melbourne Road with a “Special Forces” officer holding on to a ladder

Statement  
29

at the back as it was going along. This person jumped off the jeep even though it had not stopped moving. She describes the man as dressed all in black, wearing a round black helmet with a light on it, black boots, black bullet proof vest with a back shirt underneath. This man had nothing to say he was a police officer and was armed with a machine gun which he was holding with his right hand pointing up in the air. She says the group of boys ran off and the man with the machine gun bent his knee, but not dropped to the floor, had his right hand holding the trigger and his left hand under the weapon. She says the weapon had a scope on it and his head was tilted to one side looking down the scope. She heard no warnings given. She then heard a noise she describes as "pow" coming from the gun. She saw a spark or light coming from the end of the gun. She immediately looked down the street and saw the boy lying on the ground near to a white van, his body shaking. She then said three of the 'Special Forces' officers went to the boy, turned him over with their feet whilst pointing guns at him then dragged him out by his clothing. She says she saw about 12-14 officers dressed in black. She says no officers did anything to assist the boy lying on the ground. She says she did not see an ambulance put the boy on a stretcher. The road was then cordoned off by ordinary police. The next day police officers visited the address and spoke to her to see if she had seen anything but she said no as she did not trust the police. She then said to her mother that the police would put a gun on the boy and allege that the boy had shot himself. She also says that the day after the shooting she saw a Council mechanical road sweeper in the road which was unusual. She believed this was the police covering up evidence.

14.8. [REDACTED] is the son of [REDACTED] and brother of [REDACTED] and [REDACTED]. In the early hours of Monday 24<sup>th</sup> October 2005 (24/10/2005) he was watching television with his brother [REDACTED] at his home address in Melbourne Avenue, Newtown. He heard some people in the street and looked out of the window and saw a group of about 8 boys. These boys were either black or mixed race. They were all dressed in black with ski masks or their faces covered. They were armed with sticks and bats. [REDACTED] and his brother went upstairs to their mother's bedroom and looked out of the window for these youths. The group were on Nursery Road but then began to run into Melbourne Avenue, as if they were being chased. He then saw a police van come into Melbourne Avenue. It was small and nothing like any police van he had seen before. He said it did not have any lights on and no markings to say it was police. The van stopped in Melbourne Avenue. He then saw a similar van, this time black in colour, come down Nursery Road and turn into Melbourne Avenue. He says this van had something on the side to enable people to hang on the outside of the vehicle. There was an officer hanging on the side of this van. He says this officer was dressed in black with a bullet proof vest and helmet on and he was hanging on to the side of the van with his left hand. He was carrying a long gun with a light on the top. He says he saw this man on the driver's side of the van, there was another officer hanging on the back of the van and two others on the other side of the van. They were all dressed the same and all carrying guns. The first man he described was seen to jump off the van before it stopped, although it was driving slowly. He ran in front of the van, pointed his gun at one of the youths running away. He did not shout any warning but raised the gun to shoulder height and fired towards the boy running off. It did not make a loud noise, as though the gun had a silencer on it, and he says he saw sparks come out of the end of the gun as it was fired. After about

Statement  
30

3 seconds the officer fired a second shot from his weapon towards the boy. He says the officer raised the gun a little bit higher for the second shot. He believes the first shot missed the boy as he continued to run, but he says the second shot hit the boy in the back of his head and he fell to the floor. He saw the boy on the floor bleeding and shaking and describes it as if his head was dead, but his body was still alive. He goes on to say the officer who shot the boy walked towards him pointing his gun towards him. He then kicked the boy over with his left foot and rolled him onto his back. He says there was a helicopter up above and the armed officers came to look at the boy on the ground. After about ten minutes he saw an ambulance arrive. There was a police tent over the boy at this time. He saw the ambulance crew go into the tent and saw them put the boy in a black bag and zip it up. He says the ambulance crew did not have a stretcher but carried the black bag into the back of the ambulance, as he could not see the back of the ambulance. He describes the officers as "Special Forces" as they were dressed differently to police or to regular army police. He does not believe these officers were police officers.

14.9. [REDACTED] is 15 years old and lives with his mother, [REDACTED], brother [REDACTED] and sister [REDACTED] in Melbourne Avenue, Newtown. In view of his age and the fact that his mother was out of the country he was interviewed by IPCC investigators Greg RIELLY and Dawn MUTCH, who are trained to interview vulnerable persons. [REDACTED] from the [REDACTED] Christian centre was present acting as appropriate adult, and in locus parentis, for the interview which was conducted in a solicitor's office in Birmingham. He did not make a written statement but the interview was tape recorded. [REDACTED] says that he was at home watching television with

Notes of  
interview  
31

his brother when he was told to look out of the window by his mother as there was a helicopter overhead. He looked out of the window and saw a group of boys coming down the road. He called to his brother and they saw the group of youths standing at the end of the road. He then said he saw some jeeps come down the road. On seeing these jeeps the boys ran off. He says he saw 3 black jeeps and one white jeep stop at the end of the road. He says he saw what he describes as a "Special Forces" officer jump off the back of one of the black jeeps, raise a gun up and shoot one of the boys running away in the back of his head, causing him to fall to the ground. He says the officer was dressed all in black and was carrying a gun with a light on. After this officer jumped off the jeep he saw his right hand in the trigger of the gun and his left hand supporting it and he heard a bang. He said the gun had a "scope" on and the officer looked into that before he fired. He saw the gun made a noise like a firecracker going off. He then says he saw another "Special Forces" officer approach the boy on the ground and kicked him over on to his back. He said when the boy fell his legs were shaking. He says one officer touched the boy's neck but he was dead. He says that an ambulance attended but that officers put the boy into a bag, zipped it up and put the bag in the back of a van. He says that uniform police later attended the scene and put a tent over the place where the boy had fallen then took sand in to clear up the blood.

- 14.10. [REDACTED] has made a statement to IPCC investigators as he would not speak to police. At about 11.30pm (2330) on Sunday 23<sup>rd</sup> October 2005 (23/10/2005) he was in bed at his home when he heard people in the street. He looked out of the window and saw a group of young men walking past his house and he saw some were carrying sticks. He could not be sure if any of them were carrying

Statement

32

another sort of weapon. He then went back to bed. A little later, possible 20-30 minutes after seeing this group he was in bed when he heard a bang. He knew immediately this was a gunshot as he had heard a gunshot in the street several years earlier. He said the bang sounded muffled, as if a silencer was in use. He looked out of the window and saw a young man lying on the ground, partly under a white van in the street. The man was lying face down with his arms outstretched. He saw three or four officers approach the man on the ground who he describes as "Special Forces". He did not believe they were regular police or firearms officers as there were several differences in their appearance. He saw one officer dressed in black with a helmet with a light attached approach the man on the ground. He said this officer was shouting at the man on the ground but could not hear what was said. He heard the man on the ground groaning. He then saw the officer turn the man over with his foot. He then saw an army style truck, possibly a Land Rover but black or green in colour and saw a number of "Special Forces" officers in the street. These officers were telling people to close their windows and go inside their houses. He then saw a large police vehicle in the street with two unarmed officers in. He then saw an ambulance arrive with a male and female paramedic. They put the man onto a stretcher and put him in the rear of the ambulance. He formed the impression the man was dead as there was no movement from him. The ambulance took the man away.

## 15. The Forensic Evidence

15.1. At 2.40pm (1440) on Monday 24<sup>th</sup> October 2005 (24/10/2005) [REDACTED] [REDACTED] an approved Home Office forensic pathologist, conducted a full forensic Post Mortem on the body of Aaron Luke JAMES born 7<sup>th</sup> October 1987 (07/10/1987) in the central mortuary at Birmingham.

Statement  
35

DSI Bob Lilley and Investigator Daniel Budge of the IPCC attended the post mortem. A bullet entrance wound was found in the upper right arm of Aaron. A bullet exit wound was found on Aaron's right shoulder. A bullet entry wound was found behind Aaron's right ear. The trajectory of these wounds was consistent with one bullet causing all the injuries. After entering the head the bullet passed through Aaron's brain, bounced off the inside of the skull and lodged inside the brain. The cause of death was given as a gunshot injury to the head. During the course of the Post Mortem examination a bullet was recovered from inside the brain of Aaron JAMES.

15.2. Doctor [REDACTED] is a Senior Forensic Scientist employed by the Forensic Science Service, which is independent of the police. He specialises in the examination of firearms, ammunition and related items. On 24<sup>th</sup> October 2005 (24/10/2005) he attended the central mortuary in Birmingham and was present when [REDACTED] conducted the Post Mortem examination of Aaron JAMES. He examined the body of Aaron JAMES and saw the bullet wounds as described. He concluded these wounds were consistent with being caused by one bullet. He also examined the bullet recovered and concluded it was 32 inch calibre and to be of lead construction and not jacketed. On further examination of the bullet in the laboratory he concluded the bullet was most likely fired from a re-activated weapon with a smooth barrel. A re-activated weapon is one that has been adapted or converted from a previously de-activated weapon. These ones are often fitted with a smooth barrel. The microscopic marks found on the bullet were consistent with being fired from such a weapon.

Statement  
36

15.3. Police firearms officers in the United Kingdom are not issued with bullets of 32 inch calibre. In addition ██████████ stated he believed the bullet to be home made. There was some speculation that there was an unauthorised weapon used. This cannot be substantiated.

## 16. Family statements

16.1. ██████████ lives in Melbourne Avenue, Newtown, Birmingham. She is the aunt of ██████████. Aaron lived with ██████████ from the age of 15 years. In the early hours of Monday 24<sup>th</sup> October 2005 (24/10/2005) between midnight (0000) and 1.00am (0100) she was with family and friends at her home when she heard a 'popping' sound from the front of her house. She went upstairs to a front bedroom and looked out of the window. She first saw armed police in the street, carrying guns and wearing dark clothing. She heard a helicopter in the area and then saw a person lying on the floor outside. She was sure it was Aaron JAMES. She saw three police officers going towards Aaron. One said "stay down" two or three times. She saw no one but police in the street. She ran upstairs and spoke to her son and his friends who were playing computer games. She said "████████, someone's been shot outside. I think it's ██████████". She was obviously very distressed by this and together with her partner, ██████████, and son ██████████ she went outside. They were prevented from leaving their house by police but eventually ██████████ got to the scene and confirmed it was ██████████ who had been shot. She later went with ██████████ and ██████████ father, ██████████, to City Hospital, Dudley Road, where sadly Aaron later died of his injuries. On the evening of Wednesday 26<sup>th</sup> October 2005 (26/10/2005) ██████████ visited ██████████ at her home address. He said to her "I'm sorry ██████████, it was an accident".

Statement  
37

16.2. [REDACTED] is the father of Aaron Luke JAMES born 7<sup>th</sup> October 1987 (07/10/1987). [REDACTED] mother is [REDACTED] (now called [REDACTED]) who was the partner of [REDACTED]. [REDACTED] separated from [REDACTED] mother in 1997 and Aaron continued to live with his father. Aaron had difficulties at school and at 15 years of age went to live with [REDACTED] sister, [REDACTED].

Statement  
38  
Statement  
38a  
Statement  
38b  
Statement  
38c

16.3. At around 1245am (0045) on Monday 24<sup>th</sup> October 2005 (24/10/2005) he received a telephone call from his nephew, [REDACTED] [REDACTED] to say Aaron had been shot and was dead. He went to his sister's address in Melbourne Avenue and was told Aaron had been taken to City Hospital, Dudley Road, Birmingham. He immediately went with his sister [REDACTED] and nephew [REDACTED]. They were met by a police officer, who knew [REDACTED] and Aaron who took them to a separate area and told him the medical staff were working on him. A short while later, after the police officer had gone a female doctor and male nurse saw [REDACTED] and his family. The doctor explained to [REDACTED] that Aaron was brain dead and would not survive. He was taken to see Aaron who was on a life support machine. The Doctor advised the family they would be switching it off so he could breathe unassisted. He was assured Aaron was not in pain. A short time after the machine had been turned off Aaron died.

16.4. At 12.10pm (1210) Tuesday 25<sup>th</sup> October 2005 (25/10/2005) [REDACTED] [REDACTED] formally identified the body of his son Aaron to the police.

16.5. [REDACTED] had a meeting with the Police Senior Investigating Officer, Detective Chief [REDACTED] and they discussed the problems the police were having in getting information about the shooting of Aaron JAMES. As a result of this meeting [REDACTED] spoke to his nephew [REDACTED]. [REDACTED] told [REDACTED] that [REDACTED] had telephoned him and said that he had shot Aaron. He said [REDACTED] had told them they were being chased and Aaron fell, the gun fell out of [REDACTED] pocket and went off. [REDACTED] asked if he would go to the police but [REDACTED], the partner of [REDACTED], said he did not want his son giving evidence to the police because he did not want any repercussions at his door. [REDACTED] said that he would see [REDACTED] himself. He left the address and went to the home of [REDACTED]. He saw [REDACTED] who told him a riot van had come around the corner and they ran away. The gun fell out of his pocket and went off. He said "I shot Aaron. I shot Aaron. Aaron's dead. Aaron's dead". [REDACTED] asked where the gun was and he said he did not know. He said he had thrown it away. [REDACTED] agreed to surrender to the police the next day. [REDACTED] notified the police of this. However, it was some days later that [REDACTED] surrendered to the police.

#### 17. The further arrest of [REDACTED]

17.1. Deputy Senior Investigator Robert LILLEY was contacted by the father of the deceased, [REDACTED] on 27<sup>th</sup> October 2005 who told him he knew of two witnesses to the shooting of Aaron but they were afraid to go to the police. He also said he knew the identity of the person responsible for the shooting who claimed it was an accident. He told DSI LILLEY that the person responsible would surrender to the police the next day. This person was [REDACTED], who had been previously arrested and released. DSI LILLEY

spoke on the telephone to one of the two witnesses, who declined to reveal his identify, to try and persuade him to go to police to give any information he could. He agreed to do so but at the conclusion of the telephone call (which had been from [REDACTED] home address) ran off. This person did later, however, give police a statement about what he had seen. A copy of this statement was provided to the IPCC.

17.2. [REDACTED] subsequently surrendered to police accompanied by this solicitor. He was arrested and interviewed where he made certain admissions about his involvement in the death of Aaron JAMES. He was subsequently charged with murder and firearms offences and remanded into custody.

17.3. On Monday 27<sup>th</sup> February 2006 (27/02/2006) [REDACTED] attended Birmingham Crown Court where he pleaded guilty to the manslaughter of Aaron JAMES and possession of a prohibited weapon. The case was adjourned for four weeks for pre sentence reports to be prepared.

## 18. Family Liaison

18.1. This was conducted by the West Midlands Police. Detective Constable [REDACTED] was designated to this role and assisted greatly with enabling family visits by IPCC Commissioner Amerdeep SOMAL and the reporting officer. Regular contact with the family has been maintained by the IPCC.

## 19. Media Strategy

19.1. On the first day of both investigations the public perception of the circumstances was mixed, with some sections of the community believing the police had shot Aaron JAMES dead. This was fuelling public tensions which were already in a volatile state after a week of public disorder. There was a genuine risk that the situation would be greatly aggravated if the speculation that police may have shot Aaron was allowed to persist. In consultation with West Midlands Police it was decided by IPCC Commissioner Amerdeep SOMAL that she would lead a press conference after the results of the post mortem and the initial investigation by the IPCC were known. There was also pressure of time impacting on this. During the preceding week there had been widespread public disorder and community tensions. The IPCC and West Midlands Police, in consultation with local community groups, wanted to reduce tensions in the community. It was agreed that the press conference would be held at the earliest opportunity and led by Amerdeep SOMAL to demonstrate an independent oversight of the incident. It was however necessary to hold it in conjunction with West Midlands Police and at police premises. This was due to the shortage of time and the fact that the force had already arranged a press conference and it was impractical to arrange a separate one. This decision was later criticised by some community leaders who questioned the independence of the IPCC in fronting a West Midlands Police press conference on West Midlands Police premises. In an ideal world the press conference would have been held elsewhere and possibly not involving police but the circumstances under which it was held were time critical. The main objective was to defuse a potentially dangerous escalation of an already delicate situation. It is to the credit of the decision taken that there was no serious public disorder following this tragic incident and

the IPCC appeal for calm at the press conference. During this process the father of the deceased, [REDACTED], was involved and advised of the nature of the strategy. It is however regretted that at this early stage the IPCC were unable to engage the mother of the deceased, [REDACTED] in this process. This was as a result of a conversation with the Family Liaison Officer who advised us that [REDACTED] was happy for [REDACTED] to take the lead in the early stages of the investigation. It is a learning point for the IPCC to engage with both parents at the earliest opportunity during investigations.

## 20. Post incident management of Police Firearms Unit.

20.1. The post incident management procedures as recommended by the Association of Chief Police Officers (ACPO) manual were managed by Superintendent [REDACTED] of West Midlands Police. He was properly trained and authorised to conduct this procedure. In accordance with the recognised good practice each of the firearms officers were involved in the 'hot' debrief, they each submitted a form 'M' which is their first account record of what they had seen and done during the operation. All weapons and ammunition were examined and logged back into the Police Armoury.

The appropriate entries were made in form MK72, the firearm register, and the whole process was video recorded. There was no evidence of any police firearm being discharged and all ammunition issued was accounted for. In addition, all officers were examined by the Force Medical Examiner (FME) to ensure the welfare and health of all officers involved in this traumatic incident. A detailed post incident log was completed by Superintendent [REDACTED] and handed to the IPCC. In order to enhance public confidence it would have probably have been better if the video recording of the unloading and returning

of weapons had been completed in the presence of someone from the IPCC. This was in fact offered on the night but DSI Donaghy was still engaged in gathering information about the incident. It is the opinion of the reporting officer that the post incident management was conducted in accordance with the ACPO firearms manual and to a high standard.

## 21. Good practice

21.1. Where possible the IPCC should engage with both parents in such investigations, where families are separated, in all major developments.

21.2. On Tuesday 25<sup>th</sup> October 2005 (25/10/2005) DSI Robert LILLEY was contacted by telephone by a prominent church and community leader who was critical of the IPCC decision to hold the press conference and made the comment that public perception of circumstances could have been compromised if the IPCC were seen to be colluding with the police. He, of course, was not in possession of the facts that the IPCC knew at the time of the decision to go ahead with the press conference. As previously explained, the constraints of time, and the urgent need to prevent further serious public unrest, were paramount in the decision to proceed in the manner in which the IPCC did. The criticism has been taken on board by the IPCC, and the Commissioner has determined that wherever reasonably practicable arrangements will be made for a separate IPCC press conference.

## 22. Actions identified as worthy of note

22.1. [REDACTED] is to be commended for the manner in which he assisted West Midlands Police in a successful investigation into the tragic death of his son. He demonstrated compassion and tolerance when dealing with potential witnesses and even with the person responsible for the death of his son.

22.2. [REDACTED], the father of Aaron, deserves praise for his efforts to persuade both witnesses and the accused [REDACTED] to surrender to police to resolve the tragedy of Aaron's death.

22.3. Police Constable [REDACTED] and Police Constable [REDACTED] were instrumental in the initial care of Aaron Luke JAMES. They carried out first aid and fast aid in order to try and save the life of this young man. Despite their efforts and those of medical staff at City Hospital, tragically, Aaron died. It is to the credit of both officers in a traumatic and dangerous situation their main focus was the preservation of Aaron's life.

## 23. Conclusion

23.1. The death of Aaron Luke JAMES on 24<sup>th</sup> October 2005 (24/10/2005) was a tragedy. His death was unnecessary and he was the victim of a gun culture in a very small section of our community. My sympathy goes out to his family and friends.

23.2. The Terms of Reference for this investigation set out the parameters in which the examination of the appropriateness of the West Midlands Police response, and the circumstances immediately prior to the death of Aaron JAMES are considered.

23.3. During the late evening of Sunday 23<sup>rd</sup> October 2005 (23/10/2005) and into the early hours of Monday 24<sup>th</sup> October 2005 (24/10/2005) the police responded to numerous sightings of persons in the Lozells and Handsworth districts of Birmingham in possession of weapons, including firearms. These include credible sightings by a police officer and numerous fire brigade officers. Firearms, machetes and various other weapons such as baseball bats, bars and a green petrol can were seen. A group of youths were seen in Farm Street, Newtown by fire officers attending a car fire. This group was described as wearing dark clothing, hooded tops and masks or scarves covering their faces. They were armed with weapons as described above. This was at about 12.20am (0020) on Monday 24<sup>th</sup> October 2005 (24/10/2005). This information was passed to the police.

23.4. A short time later in Nursery Road near to Melbourne Avenue, Newtown, a similarly described group of youths were seen by the West Midlands Police Firearms Unit who were conducting a search of the area for these youths. There were a similar number to the group seen in Farm Street, they were dressed in similar clothing, armed with similar weapons, including a green petrol can, it was in reasonably close proximity to Farm Street and the time scale was similar. Whilst it cannot be proved conclusively this group was the same group, on the balance of probabilities it was. This is important. As these facts emerge it is necessary to consider the thought process and decision making of the Police [REDACTED] and his firearm Tactical Advisor [REDACTED]. Their decisions should be reasonable, proportionate, justifiable and lawful. It should also be borne in mind that a police officer had previously been shot and injured in a previous incident. It must be stressed however, there is no connection between that incident and this group of young men,

and none is alleged. The incident may have been considered in the decision making process. On the evidence of the fire brigade officers, considered in the context of the ongoing public disorder situation, the raised community tensions, I consider that the deployment of the armed officers was reasonable, proportionate, justifiable and lawful and also in accordance with their experience and training.

23.5. It is also necessary to consider the evidence given to the IPCC by [REDACTED], [REDACTED], [REDACTED] and [REDACTED]. These four people are convinced that police firearms officers shot and killed Aaron Luke JAMES. This is a very serious allegation to make. If what they say were to be true then there would be very difficult and complex questions to be answered. On the evidence they give there would appear to have been no justification for shooting Aaron on that night in those circumstances, by any police officer. The evidence they gave to the IPCC was obviously shared with the murder investigation team with the knowledge of all of the witnesses involved.

23.6. I have analysed their evidence very carefully and did not discount it. I do however feel the evidence they give is flawed in the following areas:-

23.6.1. All weapons and ammunition issued to the Specialist Firearms Unit was signed out and signed back in. Every round of ammunition was returned and in its original condition.

23.6.2. There was no evidence of a police weapon being fired.

23.6.3. The bullet found at the Post Mortem examination was of 32 inch calibre. This calibre of round is not issued to any United Kingdom police force, including the West Midlands Police.

23.6.4. The forensic examination of the bullet by Doctor [REDACTED] [REDACTED] concluded the bullet had been fired by someone using a modified or re-activated weapon. Police firearms officers do not use such weapons.

23.6.5. The witness accounts given by [REDACTED] [REDACTED] and [REDACTED] all support the fact that [REDACTED] was responsible for the death of Aaron.

23.6.6. The admissions made to the witnesses and to Police by [REDACTED] that he was responsible for the death of Aaron.

23.6.7. The fact that [REDACTED] has pleaded guilty at Birmingham Crown Court on 27<sup>th</sup> February 2006 (27/02/2006) to the manslaughter of Aaron and possession of a prohibited weapon.

23.7. I believe this is compelling evidence to support the case the firearms officers from West Midlands Police did NOT shoot Aaron JAMES which resulted in his death.

23.8. There are also some inconsistencies in the accounts given by these witnesses. [REDACTED] and [REDACTED] say an ambulance took Aaron away from the scene, [REDACTED] says no ambulance attended and [REDACTED] does not know if an ambulance attended or not. [REDACTED] and [REDACTED] say that Aaron was put on a

stretcher, but both [REDACTED] and [REDACTED] say he was put in a black body bag. There are statements from the crew of ambulance call sign [REDACTED] to say they attended the scene and took Aaron away, still alive, on a stretcher taken out of the ambulance by [REDACTED]. Some say [REDACTED] was left on the floor with no care at all. This is disputed by Police Constables [REDACTED] and [REDACTED] who administered first aid and fast aid. They inserted a nasal tube to assist breathing and administered oxygen to Aaron. This is again supported by the ambulance crew and other police officers. All the witnesses say they heard and saw the police shoot Aaron. They say they saw muzzle flashes and one witness says he saw Aaron being shot in the back of the head. The Post Mortem examination shows that the bullet entered Aaron's right arm, exited by his right shoulder and entered his head behind his right ear.

23.9. I have given careful consideration to the evidence of [REDACTED], and [REDACTED] and [REDACTED]. However I have also taken into consideration the evidence from other witnesses, the evidence that addresses the firearms issue, and the post mortem report. I am therefore satisfied that the occupants of [REDACTED] Melbourne Avenue, are mistaken as to what they have seen. In particular, I am persuaded by the evidence of Aaron's father, the post mortem report and the evidence of the Forensic Scientist, Dr [REDACTED]

#### 24. Recommendation for criminal or discipline offences against any police officer.

24.1. There is no evidence to substantiate that any police officer has committed any criminal offence in relation to the death of Aaron Luke JAMES. I have considered the following offences :

- (A) Murder.
- (B) Manslaughter
- (C) Grievous bodily harm with intent contrary to Section 18 Offences against the Persons Act 1861.

24.2. There is no evidence to substantiate that any police officer has committed any disciplinary offences. I have considered the following disciplinary offences:

- (A) Use of Force and Abuse of authority contrary to Code 4, Code of Conduct.
- (B) Performance of Duties contrary to Code 5, Code of Conduct
- (C) Lawful Orders Contrary to Code 6, Code of Conduct.

This report is submitted for your consideration.

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Bob Lilley  
Deputy Senior Investigator  
Independent Police Complaints Commission

Appendix 'A'

List of Witnesses

Witnesses are presented in chronological order.

Fire fighters from West Midlands Fire and Rescue Service

1. [REDACTED]
2. [REDACTED]
3. [REDACTED]
4. [REDACTED]
5. [REDACTED]
6. [REDACTED]
7. [REDACTED]
8. [REDACTED]
9. [REDACTED]

Police officers in the Specialist Firearms Unit

[REDACTED]

Significant Witnesses

- 25. [REDACTED]
- 26. [REDACTED]
- 27. [REDACTED]
- 28. [REDACTED]
- 29. [REDACTED]
- 30. [REDACTED]
- 31. [REDACTED]
- 32. [REDACTED]

Ambulance Staff

- 33. [REDACTED]

34. [REDACTED]

Forensic Witnesses

35. [REDACTED]

[REDACTED]

36. [REDACTED]

Family Witnesses

37. [REDACTED]

38. [REDACTED]