

Executive Summary

Independent investigation into the fatal shooting of Simon
Matthew Murden by Humberside Police on 22 March 2005

Overview of Incident

At approximately 6:45am on Tuesday 22 March 2005, 26-year-old Simon Matthew Murden sustained fatal injuries after being shot by Humberside Police firearms officers during an incident near to the westbound carriageway of the A63 at South Cave.

The incident was referred to the Independent Police Complaints Commission via a telephone call from Humberside Police at 7:20am. IPCC investigators were immediately deployed to the scene. A decision was quickly taken to conduct an independent investigation.

Specific Terms of Reference for Investigation

The terms of reference for the IPCC investigation were set as:

- To carry out an independent investigation into the circumstances surrounding the fatal shooting by police of Simon Murden, on 22 March 2005 near Hull. This included reference to the ACPO Manual on the Police Use of Firearms, and force policies within Humberside Police, relative to the management of firearms incidents.

The investigation looked into the incident as a whole, including:

- Information and intelligence available to police prior to the deployment of authorised firearms officers (AFO's);
- Information and intelligence that emerged as the incident progressed;
- Gold/silver command and decision making;
- How the firearms team was deployed and by whom;
- Risk assessment;
- Planning in what was recognised to have been a spontaneous incident;

- Tactical advice and options ie dogs and/or negotiator;
- Weapons and munitions available to the AFO's;
- Scene management following the shooting;
- Firearms training of the AFO's deployed;
- Firearms and associated training of gold and silver commanders;
- Fitness for duty of those involved in the principle roles;
- Tours of duty prior to and on the day of deployment;
- Force policy and procedures in relation to the deployment of AFO's/Armed Response Vehicles (ARV's);
- Fitness of vehicles used for ARV work and maintenance issues surrounding in car video/audio recording;
- The recording of issue of weapons and ammunition and any shots fired;
- Scene examination;
- Antecedence of Simon Matthew Murden;
- Antecedence of the officers subject to Regulation 9 notice;
- Witness identification and evidence gathering;
- Baton gun use and weapon efficacy as a 'less than lethal option'
- Article 2 of the European Convention on Human Rights (ECHR) 0 the right to life;
- Common Law of England - the right of defence of self or another;
- Section 3 Criminal Justice Act - use of reasonable force in the prevention of crime.

Collation of evidence

The IPCC investigation was led by Senior Investigator Joe Penrose and collated 305 witness statements, collected 433 exhibits and obtained advice from a firearms advisor and forensic scientists.

Overview of Investigation Findings

Build up to incident on A63

David Murden became concerned about the welfare of his son, Simon, in the early hours of the morning on Tuesday 22 March 2005.

Mr Murden contacted an emergency doctor service at 5:07am. Mr Murden advised the doctor that he believed Simon was having a 'major psychotic delusional episode' and had 'threatened to kill the first person through the door' (to his room).

Mr Murden then made an emergency call to Humberside Police at approximately 6:05am to advise that Simon appeared to be suffering a psychotic episode and had left the family home at Cherry Tree Farm Cottage in Beverley in a blue transit van.

Mr Murden contacted police again at 6:30am to advise that Simon appeared to have taken an ornamental African sword from his room. Simon had, in fact, taken three ornamental swords with him when he left Cherry Tree Farm Cottage.

Humberside Police had by this point begun to receive emergency calls about a blue transit van which was being driven against the flow of traffic on the A63. The van continued driving along the wrong carriageway for approximately six miles before it was involved in a head-on collision with a Ford Mondeo.

The driver of the transit van, Simon Murden, began walking along the carriageway and was seen carrying items which have been variously described by eyewitnesses as swords, machetes, poles, an umbrella and a gun.

Simon then attempted to enter the cab of a Scania articulated lorry, before getting into a stationary BMW motor car. He exited the vehicle very quickly. The driver of the BMW advised the investigation that he was not subject to any threats from Simon, nor did he feel threatened.

Simon then crossed the central reservation and continued walking in a westerly direction towards the South Cave Little Chef restaurant and BP filling station which were located approximately three quarters of a mile from the scene of the collision.

Humberside Police contacted David Murden at 6:41am to ask if Simon had access to firearms. The answer was no.

Police Response

Humberside Police deployed two double-crewed armed response vehicles (ARVs) to the incident. The officers were given authorisation for firearms.

The two ARVs travelled from Hessle Police Station in close convoy and at speed along the westbound carriageway of the A63. The officers were advised that Simon was believed to be armed (with a sword, crossbow or gun) and was a member of special population group - which meant he was believed to be suffering from a mental disorder which might make him behave erratically.

The first of the two ARVs had expected to see Simon on the opposite carriageway and by the time they did notice him walking alongside the carriageway they were driving along it was too late to stop.

The second ARV did see Simon and stopped in the deceleration lane which gives access to the Little Chef and BP service station forecourt.

The two firearms officers exited the vehicle. One officer, who exited the car via the front passenger door, was armed with a Heckler Koch baton gun and a Glock 9mm semi-automatic pistol. The second officer, who exited via the driver's door, was armed with a Heckler Koch .223mm carbine and a Glock 9mm semi-automatic pistol.

The officers challenged Simon. The police log records at 6:45am that an ambulance was required as shots had been fired. In total two baton rounds were fired, followed by nine live rounds from the .223mm carbine and one 9mm round from a pistol.

Simon sustained multiple gunshot wounds and was pronounced dead at the scene.

Injuries sustained by Simon Murden

A post mortem examination of Simon revealed 13 bullet wounds. Six of these were confirmed with certainty as entry wounds. Five of the wound tracks were found to go directly backwards which was consistent with shots being fired from the front when Simon was in a standing position.

The sixth entry wound revealed a sharply downward bullet track. Two suggestions put forward for this downward track were that Simon was either falling forward when struck by this bullet or that he was seated upright and the officer was standing pointing the pistol downwards.

The wounds caused severe disruption to Simon's internal organs, particularly the heart, liver and right kidney.

The cause of death was given as internal bleeding, but the pathologist noted that there were four particular wounds any one of which would have been independently fatal.

Examination of the swords being carried by Simon showed bullet penetration damage to two of them which was suggestive of them being carried close to his body.

Witness Evidence

Members of the public:

A large number of witnesses gave accounts of the build up to the incident and the shooting itself. These accounts varied.

Some witnesses described Simon as aggressive and threatening, while others gave accounts that Simon was passive and non-threatening.

The items being carried by Simon also prompted contrasting witness evidence. Some witnesses recounted that Simon was carrying something under his coat - a pheasant, sticks, tubes, an umbrella - while others said that he had his arms outstretched and was "wielding", "wafting" or "lunging" with a weapon.

Mr Murden's actions were contrastingly described as "hitching a lift", "dancing around", "walking at a steady pace", "out of it", "agitated", "placid", "high or drunk" and "looking drawn and tired as if he had not slept".

Several witnesses saw Simon fall to the floor after being shot. Some believed Simon was trying to get back to his feet when the final shots were fired. Others claimed Simon had got to his feet again and was "lunging" at the officers when the shots were fired.

Police firearms officers:

The two firearms officers described how they were aware Simon was a member of a special population group and how, as a result, they had decided to turn off the emergency warning equipment on their vehicle to ensure it did not exacerbate the situation.

They also described how they feared for the safety of the public and themselves. They believed that Simon was acting aggressively and

they had no option but to open fire.

One officer described how he had fired two baton rounds at Simon after he failed to stop. He then described hearing his colleague fire two live rounds in quick succession, followed by another two rounds which resulted in Simon falling to his knees. The officer claimed Simon was pointing a sword at his colleague. The officer drew his Glock pistol and then heard his colleague fire two more rounds.

The officer claimed Simon was starting to get to his feet and he decided to fire his Glock pistol. He fired once, but before he could fire another round he heard his colleague fire three more rounds and Simon fell onto his back. The officer then rendered first aid.

The second officer claimed that after his colleague had fired two baton rounds Simon continued to move forward in an "aggressive manner". He believed the life of his colleague was in danger and fired two live rounds from his carbine. He then fired two more rounds which resulted in Simon dropping to his knees.

The officer claimed Simon got to his feet and began walking towards his colleague again. He fired two more rounds and Simon fell into a sitting position, still holding a sword. He claimed Simon again tried to get to his feet holding the sword. He fired three more rounds and Simon fell onto his back.

Key Conclusions

The investigation revealed how Simon Murden was experiencing a psychotic episode which meant to the police he would be considered as a member of a Special Population Group. This meant he could not be expected to respond in a rational manner to instructions.

Simon's father believed the episode may have been prompted by Simon smoking strong cannabis at some point in the days leading up to 22 March. Toxicology tests showed traces of cannabis in Simon's body but not at a level to cause intoxication.

Other than his erratic driving, there is nothing prior to him being challenged by the armed police officers to evidence that he posed a direct threat to members of the public.

Eyewitness evidence is confused. Some eyewitnesses, including the police officers, assert that Simon was carrying the swords in an aggressive and threatening manner. However, others assert that Simon was passive and carrying or cradling the swords across his chest.

The officers were close enough to Simon to be able to discount suggestions that he was carrying a firearm.

The officers assert they challenged Simon, and this assertion is supported by eyewitnesses.

One officer fired two baton rounds and a single live round from a Glock pistol. The other officer fired nine live rounds from his Heckler and Koch carbine.

The officers assert that their actions were reasonable, proportionate and necessary to protect the public and themselves.

Officers are entitled to use such force as he/she considers reasonable if there is an immediate threat of serious harm to themselves or the public.

Specific Recommendations

The matter was referred to the Crown Prosecution Service for consideration as to whether or not criminal charges should be brought against any of the officers involved. The Director of Public Prosecutions announced on 3 October 2006 that no officers would face criminal charges.

An inquest was held into the death of Simon Murden between 18 February and 2 April 2008. The jury returned the following narrative verdict:

"Between 6:45am and 6:50am on Tuesday, March 22, 2005, on the verge of the A63 close to South Cave, Simon Murden died as a result of being fatally wounded by shots fired by two firearms officers. Simon was suffering a psychotic episode at the time of his death. The decision to deploy armed officers to challenge him was an appropriate course of action. He was challenged by two armed police officers who then fired nine shots from a carbine and one from a pistol. We are satisfied on the balance of probabilities that all of these shots were justified".