

## Inquests and Inquiries following medical disasters and the use of force by the police

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Essex Court 1

## Inquest or Inquiry

- it may not be a question of preference;
- an inquest may be impossible: -
  - s.17 RIP(A) (potentially cured by the appointment of a judge as coroner)
  - PII (ditto);
- inquests have the benefit of greater speed, accessibility, potentially strong conclusions (e.g. unlawful killing) and of juries, particularly in police cases;
- but juries may be more reluctant to criticise the firearms officer who fires the fatal shot(s) c.f. those higher up the command chain

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Essex Court 2

## Police use of firearms

- *McCann v UK* (1996) 21 EHRR 97: -
  - intentional use by the State of deadly force must be absolutely necessary;
  - surrounding circumstances, e.g. planning and control, must be examined;
- mandatory referral of DSI matters to the IPCC;
- potential murder charges where the officer does not honestly believe s/he had to open fire in self/other defence;

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Essex Court 3

## Command structure & authorisations

- Gold (Strategic) Commander
- Silver (Tactical) Commander
- Bronze (Operational) Commander(s)
- firearms authorisation: -
  - protection from a person in possession of, or with immediate access to, a firearm or other potentially lethal weapon;
  - protection from a person otherwise so dangerous that the deployment of armed officers is considered to be appropriate;
  - operational contingency;
  - destruction of dangerous animals
- are there less lethal options?

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Essex Court 4

## Documents

- firearms authorisation(s) and rationale;
- briefing log or recording;
- decision logs, including planning;
- surveillance and intelligence logs;
- intelligence gists
- post incident accounts: police, subjects and third parties;
- body worn camera, and other, footage;

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## What did decision makers know and when did they know it?

- evolving intelligence picture and the level of confidence in key intelligence;
- communications with officers on the ground;
- what tactical options were available?;
- what options were considered but rejected, and why;
- State Green, State Amber, State Red and Strike – and the attendant devolving of decision making down the command chain

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## Background of officers

- training and experience;
- involvement in previous incidents;
- proven use of force complaints;
- relevant unproven use of force complaints;

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## Deaths in a clinical setting

- potential importance of full records
- hospital notes;
- GP records;
- correspondence including referrals;
- laboratory tests;
- imaging and reports;
- drug charts
- fluid balance charts
- observation charts;
- nursing care plan.

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### Potential causes of clinical mishaps

- drugs: errors, interactions, complications, hypersensitivity;
- diagnostic errors;
- postoperative complications: bleeding, infection, damage to other structures;
- intraoperative complications: bleeding, heart attack, anaesthetic disasters (dosage, oxygenation etc.);
- fluid and/or electrolyte imbalances;
- falls;
- obstetric;
- Munchausen syndrome by proxy etc.

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