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Mental Health and Death in Custody Review

Eddie Bruce-Jones

Abstract: The author discusses the findings and recommendations of the first official review of practices and processes relating to and following police-related deaths in the UK. Dame Elish Angiolini's 2017 report paid particular notice to mental health implications and the impact on families, who had lost loved ones. Excerpts are provided here of remarks by Deborah Coles (of INQUEST) and Marcia Rigg (of United Families and Friends Campaign) at the report's launch – focusing on the call for automatic legal aid for families at inquests and the end to police conferring after an incident. Though not an abolitionist text, the author points to certain recommendations which could lead to less and less dangerous policing of vulnerable communities.

Keywords: Angiolini Review, deaths in custody, family campaigns, mental health, policing, restraint, use of force

The Report of the Independent Review of Deaths and Serious Incidents in Police Custodyⁱ (known as “the Angiolini Review”), published in 2017, was commissioned by the then UK prime minister to examine “the wide range of circumstances around deaths and serious incidents in police custody and of suicides occurring shortly after release from police custody.” The review covers a broad range of issues, including delays and errors in the formal investigations, the preservation of the integrity of evidence, disproportionate use of force in policing, and the impact of policing practices on vulnerable groups.

INQUEST, the main organisation in the UK that assists bereaved families in their individual and community-based advocacy and campaigning on behalf of those who have died in police custody, has called the Review a ‘landmark’ report,ⁱⁱ as it submits to the public record the myriad ways in which families’ calls for transparency and expedient and accessible justice around the deaths of their loved ones are systematically thwarted. It also commends the Review’s over 100 recommendations for change, many of which are, in line with INQUEST’s purpose—to affect meaningful change and prevent future deaths.ⁱⁱⁱ

An important aspect of this report – one that has been relatively underexamined from a policy perspective, and the one around which this reflection is based – is its treatment of mental health. A chapter of the report is dedicated to evaluating and proposing solutions to the impacts of policing on those experiencing mental health difficulties. However, mental health is a topic that is integrated into a range of the report’s observations, and it appears in virtually all of the other chapters as well. For example, mental health is discussed in the chapters on restraint (where restraint is described as capable of overloading a person’s system when they

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are already experiencing a heightened physical and mental state)(47), intoxication (where denial of care under the Mental Health Act 1983 to people who are intoxicated overlooks a major vulnerability of those who may be suffering from mental ill health)(57) and ethnicity (where the intersectionality of those people not racialised as white and experiencing mental ill health translates into those individuals being stereotyped as ‘mad, bad and dangerous’ rather than in need of care)(87) and self-inflicted deaths (where it is noted that police custody and the circumstances of arrest tend to exacerbate existing mental health vulnerabilities) (95) and children and young people (where the detention of children with mental health concerns is critically discussed)(109) and ‘other vulnerable groups’ (where the mental health needs of women and homeless people is discussed)(117–118). This starkly demonstrates that mental health is a major thread of vulnerability connecting communities that are subject to and facing detriment from policing use of force, arrest procedures and custody.

This brief essay introduces the Angiolini Review by presenting the context in which it was written, commenting on the Review’s publication by two significant figures in the field of policing justice campaigns, and analysing the prospects for the Review to instigate demonstrable reform and even potentially transformative change.

Context of the Review

The Angiolini Review was drafted by Dame Elish Angiolini, but it is the product of a great many voices. Angiolini consulted families, organisations and other stakeholders in order to gather evidence and identify the range of problems and potential solutions. As with many public inquiries, reviews and commissioned investigations into systemic problems, the prior social mandate for public investigation into the issues raised in this review has come from bereaved families and concerned members of working class communities and communities of colour who had been living in the shadow of the policing violence and amidst the vitality and resilience of the laws that maintained and, at best, managed such violence. In other words, bereaved families have known from experience, and for quite some time, that policing institutions, regulatory structures, and legal rules and practices are part of a system that must be investigated holistically.^{iv} One cannot, then, treat police violence on a case-by-case basis without also viewing the social and institutional contexts which produce such violence and sustain its effects.

Deborah Coles, the Director of INQUEST, offered an in-depth background of INQUEST’s work at the intersection of racism and mental health at the 2018 Symposium on Race, Mental Health and State Violence, held at Birkbeck. This background set the stage for the discussion that followed, which lamented the slow pace at which it seemed that reforms could be expected.

“What we do in terms of custodial deaths is we situate them in their social economic and political contexts because so many of these deaths impact on policies on public health, addiction, equality, but also on policies about combating racism and discrimination, and I want to talk about the broader context of institutional racism because I think it certainly has a bearing and not least of all at this conference, because there is a pattern of cases where race, mental health and criminal justice intersect.

Before talking about policing particularly, I'm just going to mention several names that some of you may know. Rocky Bennett, who was a black man who was restrained by staff at a psychiatric hospital - and restrained for such a long time that he stopped breathing. Sarah Reed, the young black woman who was remanded to Holloway Prison—and she was the last death at Holloway Prison—she was she was remanded for the psychiatric reports around an offense that she had allegedly carried out when she was herself in a mental health setting, because she was ill. And she died because of the neglect and ill treatment of the prison and healthcare staff at Holloway. These cases are all on our website, so if you are interested in these issues, please have a look. Also, Prince Fosu, who died of hypothermia, who had been left naked in Harmondsworth Immigration Removal Centre for six days without bedding or a mattress. These are some of the Black deaths that we're dealing with. [...].

And as I say, central to any discussion of these issues is how structural racism is embedded in the criminal justice system, and I'm talking as a white woman working at an organisation like INQUEST, but I we have seen, and we can demonstrate the interconnectedness of racism and discrimination by the police, courts and prisons. It's not unique, it's not unsurprising, and in fact official reports, the recent Racial Disparity Unit report, the David Lammy Review and work by brilliant NGOs all echo these concerns, and we only have to look at racial disparities in terms of prisons—who gets criminalised, who gets imprisoned. I do think that the Stephen Lawrence Inquiry was important for the recognition and acknowledgement of institutional racism, but one of the concerns that we have is over the last few years, that language has gotten increasingly diluted. People talk now about unconscious bias, and about equality and diversity, and I think we have to name it and ask really important questions about racism.”

Coles's situation of custodial deaths and deaths in policing situations within the frame of racism, and further, within the context of neglect and mistreatment of people experiencing mental ill-health makes a case for the use of clear language to describe institutional and structural forms of racism. This is a theme highlighted not only by bereaved family members, who experience the patterns of maltreatment first hand, and support organisations like INQUEST, which also collect data on such treatment, but by the interdisciplinary set of academics and service providers that gave inputs at the 2018 Symposium.

The Review was published at an important moment in time. Families have been politically engaged for decades in a call for accountability and fairness in policing, particularly for vulnerable segments of the population. In the time between the Review's publication and the writing of this short reflection, family campaigns and the associated lawsuits and inquiries have persisted, and the political climate for change has changed, sharpening in some ways. At the same time, the Review's broad range of considerations have not begun to be implemented.

The launch of the Angiolini Review marked an important historic occasion for those campaigning for justice and change in policing, and in particular, the families and supporting organisations like INQUEST. For this reason, it is appropriate to offer some of the words shared by Deborah Coles, the Executive Director of INQUEST, and Marcia Rigg, activist and

campaigner with the United Friends and Family Campaign and director of the Sean Rigg Campaign for Justice and Change on the occasion of the launch of the Review. While the comments they offered during the launch event were not billed as comprehensive analyses of the Review's content, they serve as a testament to the era that the Review ordains—one in which the language around policing vulnerable communities had reached a point in public discourse and possibly in the broader political imaginary were crystallising into policy recommendations, particularly regarding mental health, on an ever-more formal register. This shift had been powered by the work of families, support organisations and prior recognition by government bodies (e.g., the 2013 Independent Commission on Mental Health and Policing Report, authored by Lord Victor Adebowale, which examined the London context). In some ways, the Adebowale Review set the stage for the Angiolini Review, in affirming the argument that mental health was a “core business” of policing, which “needs to be reflected in all policy, guidance and operating procedures” (7).^v

The Review's Launch

In light of the important roles played by families and the organisation INQUEST, it is important to bring the voices of some of these individuals into the frame. INQUEST held a press conference to launch the Angiolini Review on 30 October 2017, and speakers included Dame Angiolini, Deborah Coles as the Director INQUEST, and members of bereaved families, who have lost loved ones to policing, including Marcia Rigg, Aji Lewis and Tony Hebert.

Coles opened the press conference by thanking both the families and the author, noting the Review's potential to bring about change and echoing that the change has been called for over the years by bereaved families.

“I want to start by really paying respects to all the families who have campaigned over many, many years for an inquiry into the unacceptable number of deaths that take place in and following police contact. And this report really is landmark. It's a landmark report in the sense that it is grounded –anchored in the experiences and testimony of bereaved families. And I think it acknowledges their grievances and the obstacles they face after a death has occurred. We are joined this afternoon by a number of families: Marcia Rigg, Tony Herbert, Alison Orchard, and some other families in the room who will be available, some of them will be available for interviews afterwards.

But what I think is significant about the review is that it's the first and only review of policing practices and related processes that follow police related deaths ever to take place. And it makes some very profound recommendations; evidence based pragmatic recommendations that call for reforms to the police, to the health service and justice system. And I think what it represents is a real opportunity to save lives and transform the experience of the vast numbers of vulnerable people who come in contact with the police. But of course, its value must be ultimately judged by the changes that it brings about and the government response to the recommendations, which I do think could bring about fundamental change if implemented. And of course, this is in the interests, not just of the bereaved families, but the public interest and of course, the police themselves.

[There are a] couple of key recommendations that, as the director of INQUEST, I would like to flag up because they resonate with our day-to-day work with families [...] the recommendation about free non-means tested public funding for families to be advised and represented throughout the long and protracted legal processes that follows. That's fundamentally important and I think the report really does point to the inequality of harms that currently exists. It calls for much more prompt and effective investigations by the Independent Police Complaints Committee. It also calls for the police to be properly held to account at an individual and corporate level, an end to police officers conferring, [and] urgent quality mental health training for the police across all the 44 police forces. A recognition that any type of restraint is potentially fatal, and also it acknowledges the disproportionate number of deaths following restraint of people from black and minority ethnic communities. And it really does point to the importance of sustained learning and accountability, and the frustration that we see where death after death raises the same issues of concern.”

Marcia Rigg then offered her impressions on the Review, from the perspective of a family member who has gone through the process of engaging with police, the legal system and political structures in the process of trying to achieve a sense of truth and accountability for what happened to her brother, Sean Rigg.

“I'm Marcia Rigg. I'm the sister of Sean Rigg that died in custody, and I thank you very much, Elish and Deb for making this report happen after Aji and I met with Theresa May [...].^{vi} I'm pleased to hear that legal aid is recommended to be given to families automatically. This has always been a very difficult issue for families where families are heavily means tested and it's very equitable for families in terms of their financial situation, including all members of their family. My family, for instance, was asked to contribute £21,000, and I'm sure other people in this room had the same. So, I'm just hoping that that will be implemented forthwith, immediately, so that it can help other families. The delays in investigations is unacceptable, completely. My case is ongoing and it's nine years since my brother died, and there have been numerous investigations, and the inquest, and even a perjury trial. But that has only happened, strictly, because of the family really pushing – pushing for this at every step, and we couldn't have been able to do it without the help of INQUEST and my legal team, Hickman & Rose. It's impossible for any family to find out, fully, exactly what happened to their loved one when they die in state custody. Because all the other stakeholders seem to close ranks...and having access to the body to see your loved one after hearing of the death doesn't actually happen because the fact is, is that the state say that the body belongs to them. So, immediately, you can't help your loved one. You can't kiss your loved one and, for me, I wondered if that was one of the reasons for hiding medical evidence. And so, I'm hoping that autopsies can be carried out transparently, where they should be video recorded because families do not have representation at an autopsy. So that is something.

And, also, the conferring of officers and [the recommendation] that their statements should be taken immediately because officers do confer and, in my opinion, they do collude, and they lie, because I've witnessed it myself. I've witnessed it at other

families' inquests and investigations, so officers really do need to be made accountable. That's what we need to see is accountability. We've had numerous reports for decades in this country where some of these recommendations are reflected and so it is tantamount that now the government has the opportunity to implement these recommendations, and we would like a detailed response to all the recommendations, so I'm hoping that I will see that in the government's report. I understand it's thematic, and I'm interested to see what it says. But, at the end of the day, what families require is full accountability because officers are allowed to act with impunity and until then, until accountability is given, that means prison and that means to be sacked. That...that's what justice looks like then an officer might think twice when they lay their hands on a loved one, that this person could actually die and they could actually go to prison. And until then, I don't think anything much will...will change in...in an officer's mind. They do have to be caring about exactly what Elish said and I don't think people need training for that. So, we just need somebody with a human heart and so I welcome this report. I'm upset that it's taken so long for the government to respond without any explanation and that has just exacerbated the weight for families. Now, let's get on with the job and implement these recommendations. Thank you."^{vii}

In their comments, both Coles and Rigg highlight aspects of the Review that call for what could be a monumental shift in the structure for families who have lost loved ones to policing violence. They mention the recommendation for guaranteed financial assistance to the bereaved families which is not means tested (13, 142). This is such an important component of the Review's recommendations because it allows for more meaningful access to the legal and political structures that exist, however imperfect. This is not only a barrier to justice in terms of process, but it is a source of frustration and distraction for families to have to bear the financial burden of their loved ones' wrongful deaths. It produces work for families beyond the work of campaigning for justice; it is a further extension of the violence they have already endured.

Another important aspect for Rigg was the ability for families to access the body of their deceased loved one. Later, at the 2018 Symposium, she would articulate this as profoundly devastating, that her brother's body was in a locked glass room, and initially, they had been told to return six days later to view him."^{viii}

Coles and Rigg also both discuss the importance of the recommendation that officers not be allowed to confer prior to submitting their accounts of events to the investigating authority, the IPCC (147–150).^{ix} This level of procedural guarantee is important not least of all because it recognises that there is an unsavoury but necessary topic to confront in the context of policing related deaths, which is the possibility that the death will be mishandled, even purposefully or concertedly. The Review, in its matter-of-factness, includes this in its analysis, rather than to relegate it to the terrain of campaigners, because it represents a key concern and a relatively consistent experience of bereaved family members.

Rigg's comment about the need for accountability but scepticism that training is the issue is particularly poignant in the current moment, where those activists articulating abolitionist demands to reduce the scale, structure and effect of policing institutions attempt to shift the

focus from training police to defunding police. Her choice, instead, to say that what we need is someone 'with a human heart' appeals to the recurring theme of empathy running through the review. Empathy is not merely used as a hollow catchphrase, but rather it is brought in as a criticism of policing practice that has tangible impacts, in particular on those experiencing mental ill health. The Review identifies a lack of empathy in practices across the range of institutions covered within the remit of the review, including in policing, custodial detention, IPCC investigations into deaths, and coroners' engagement with families (see pgs. 113, 123, 173, 195, 221, 239, 244, 258, 266).

Others who had also lost family members to policing altercations and conditions of custody also commented on the review, with particular attention to the lack of funding. Tony Hebert noted that it was difficult for his family to find legal funding and that INQUEST played a vital support role in his family's case for justice around the death of his son.^x Aji Lewis, whose son Seni was killed by police in 2010, remarked that without the report, her family would feel victimised. She focused in particular on the report's criticisms of the IPCC and calls for changing the investigatory processes of the Commission to achieve greater transparency, fairness and speed.

The Review and Prospects for Change

"Police officers are not just required to run quickly down Oxford Street. They're required to empathise, communicate and listen and be able to identify mental health and people that are severely intoxicated. That's a complex set of skills where they're asking for a police officer in the 21st century and that has to be recognised in the training and, indeed, in the level of recruitment of police officers in the future, as well."

-Dame Elish Angiolini^{xi}

The Review puts forward 110 recommendations, many of which stand to prevent unnecessary suffering and premature death, or assist bereaved families in seeking justice for their loved ones. Looking toward the future, it must be noted that, unfortunately, implementation of the Review's recommendations has not been taken up, for the most part, as of the writing of this piece. At INQUEST's launch of the Angiolini Review, the participants, including Angiolini, Coles, Rigg and others, emphasised the importance of speedy implementation of the recommendations. However, by the time of the 2018 Symposium, the Review's recommendations had still remained unimplemented.

Indeed in late 2019, Coles, in an INQUEST press release on the IOPC's release of death in custody statistics, cited disappointment at the lack of governmental implementation of the Angiolini Review's recommendations. She says,

"The Angiolini review made pragmatic recommendations to ensure safer responses to people with mental ill health and addictions. Two years on the government reports little progress in these areas. The fact that the majority of recent deaths relate to these vulnerabilities shows the cost of such failures, and the importance of a public health focused response.

At a time when all political parties are promising additional police on the streets, our ongoing casework shows that more police numbers are not the answer to public safety. Ultimately to prevent further deaths and harm, we must look beyond policing and redirect resources into community, health, welfare and specialist services.”^{xii}

The timely implementation of the Review’s recommendations is vitally important for minimising the harm of the criminal justice system. Some of these are reformist, inasmuch as they attempt to reduce the impact of the problems caused by policing without proposing fundamental changes to the structures that underlie policing practices. However, some of the proposals invite us to imagine a more scaled back version of policing, and while this does not ultimately mean that the Review is an abolitionist text, it can be read in light of the current debates on policing abolition and understood as a tool rooted in the deep criticisms that abolitionists have brought to bear on debates around criminal justice, race, and power relations for decades.

The character of the majority of the recommendations is reformist in the sense that it attempts to prevent further death and change the landscape of protection and the degree of recourse that exists for families when their loved ones are lost to policing violence. These include initiatives to improve or refine the skills of police (e.g., through awareness training) and to improve policing technologies (e.g., to require body cameras) to diminish the impact of policing on vulnerable groups and to ensure that the evidentiary basis exists to make claims of police brutality after it occurs. In the longer term scheme of policing reforms, such innovations can, in isolation, serve to legitimise widespread use of policing, since it makes policing arguably more humane.^{xiii} In a slightly different way, some ways of scaling back policing practice may give rise to other forms of institutionalisation, which produces other potentially long-term problems (e.g., the recommendation that police restraint of someone experiencing a mental ill health should constitute a medical emergency).^{xiv}

However, there are also recommendations offered in the Review that, when taken to their logical extremes, would tend to reduce policing in society more generally. For instance, the criminalisation of certain forms of restraint reduces the power of police (35–46), and the phasing out of using police stations as Section 136 places of safety similarly scales back the use of law enforcement institutions in society (79).

The balance of reformist and transformative recommendations in the review seems to have been made carefully and in consultation with families and INQUEST, among others. The breadth of the Review is impressive and certainly ambitious, and the real challenge that it presents is how, and whether or to what extent, the recommendations will be followed up. Dame Angiolini ended her remarks at the INQUEST media conference launch by reflecting on the urgency of following through with the recommendations, given the toll that falls on families. Of the families, she says, “they have to re-mortgage their house in order to attend and meaningfully participate in a process which has resulted in the death of their loved one. It’s not right. It has to be changed.”

In the meantime, organisations like INQUEST have taken the opportunity presented by recent events, including the Black Lives Matters protests in the US, the UK and elsewhere, the

Windrush scandal and the Grenfell Tower fire to recentre their demands for radical reform on the issue of structural racism. Deborah Coles articulates this in a LAG Report in the following way:

“The energy of recent protests has enabled more conversations about how to create a safer, fairer and more equal society, thinking about prison abolition as a way of doing something radically different. As a result of our evidence-based knowledge and experience, we have asked more challenging questions: why prison is used to address what are social problems of mental ill health, addictions, drugs, homelessness, poverty, and inequality; why there is always a prison place but not a refuge space for a woman with mental ill health and a story of domestic violence and trauma; why there is always funding for more police weaponry such as the rollout of tasers but youth clubs are shutting due to lack of funding?

It is this evidence that INQUEST has utilised to adopt an abolitionist perspective to frame policy demands. An immediate halt to the prison building programme, and the diversion of those involved with the criminal justice system away from the prison to community alternatives.”^{xv}

In the view of the directorship of INQUEST, then, it is important to understand the broad range of reforms that might eventually come to fruition as a result of policy initiatives such as the Angiolini Review, as well as broader demands raised by civil society organisations and organisers, as within the vision of abolition. This requires, in a sense, scaling down the reach and effects of the criminal justice system, including reducing its infrastructure. The result is a commitment not only to ongoing strategic interventions, but a vision of the future of social life that minimises the violence that can be visited upon society’s most vulnerable groups.

ⁱ Angiolini, Elish. Report of the Independent Review of Deaths and Serious Incidents in Police Custody. January 2017.

ⁱⁱ See INQUEST, “Media Release: Landmark review on deaths in custody published today is an opportunity to save lives.” 30 October 2017. Available online at <https://www.inquest.org.uk/angiolini-review-published-today>.

ⁱⁱⁱ See INQUEST, “Angiolini Review into Deaths and Serious Incidents in Police Custody: Policy briefing,” October 2017. Available online at <https://www.inquest.org.uk/Handlers/Download.ashx?IDMF=297f4a05-8581-4b44-8d08-09b0182e904f>. See also Institute of Race Relations, “Angiolini Review: Hope for Families Let Down by the System,” 2 November 2017. Available online at <https://irr.org.uk/article/the-angiolini-review-hope-for-families-let-down-by-the-system/>.

^{iv} See e.g., Institute of Race Relations, *Policing Against Black People*, 1979.

^v See The Angiolini Review, pages 24 and 25, which list other overlapping reviews and studies.

^{vi} Marcia Rigg and Aji Lewis, the mother of Olaseni Lewis, another man who had died, met with Home Secretary Theresa May during 2015 to talk of their families’ experiences.

^{vii} Marcia Rigg, Comments at INQUEST Media conference launching the Angiolini Review, 30 Oct 2017.

^{viii} To learn more about Sean Rigg’s case, visit <https://www.seanriggjusticeandchange.com/> and www.inquest.org.uk.

^{ix} The IPCC has now been replaced with a new body, the Independent Office for Police Conduct.

^x Tony’s son, James Herbert, who suffered mental ill-health, died after being restrained by Yeovil police in June 2010.

^{xi} Dame Elish Angiolini, Comments at INQUEST Media conference launching the Angiolini Review, 30 Oct 2017.

^{xii} See INQUEST, “Media Release: INQUEST Response to Death in Custody Statistics.” 5 Sep 2019. Available online at <https://www.inquest.org.uk/iopc-stats-2019>.

^{xiii} For more thorough treatment of the distinction between reformist reform and abolitionist steps, see Abolitionist Futures, “Reformist reforms vs. abolitionist steps in UK policing,” available online at <https://abolitionistfutures.com/defund-the-police>.

^{xiv} It should be noted that the Angiolini Review is sensitive to the dangers of re-institutionalisation.

^{xv} Deborah Coles, “The culture of immunity and impunity”, in Legal Action Group, *Justice Matters: Essays from the Pandemic* (2020).