

SHOOT TO KILL



Shoot to kill

Maurice Punch

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Book review by Sally Ramage, Editor, *The Criminal Lawyer*, Bloomsbury

Deadly pursuit

I was looking through the introductory pages for any reference to the 1988 film titled *Deadly Pursuit* (the title changed from the previous 1947 title of *Shoot to Kill*). There was none, although the author informs the reader that the term was used in respect of the vicious shooting dead of de Menezes in a London Underground train at Stockwell Underground Station in south London and sets out in pages 70 to 74 arguments for and against armed police.

British Police 'Shoot To Kill' Policy

The British police policy of 'shoot to kill' was alleged to have been used previously in Northern Ireland and after police had shot many people dead, the Walker/ Sampson enquiry was set up. The enquiry concluded that although no written evidence of

a shoot-to-kill policy was found, there was a clear understanding that RUC officers were expected to enforce it. In Britain, police have a shoot to kill policy because of terrorism fears. The policy remains in place today ¹ despite the police shooting dead an innocent man Charles de Menezes in London.

Author Maurice Punch

Maurice Punch is also the author of two noted books, namely, *Zero-tolerance Policing* and *Police Corruption*. Maurice Punch is ‘a man after my own heart’ as the saying goes. His research interests lie in the legal topics of policing, police corruption, and corporate crime, with a strong focus on the subject of organisational deviance. It is as well to remind ourselves that it is due to our high standard of living and the high standard expected of British policing that there are criticisms against the police when a man is shot dead by police. According to a British Foreign Office document, though, the British police service is the most highly respected police service in the United Nations. Everyone wishes to live in a place where police protect the community.²

¹ Editor, ‘Shoot to kill policy to remain’, BBC News, 25 July 2005. See Webpage <http://news.bbc.co.uk/1/hi/uk/4713199.stm> (accessed on 2 Sept 2011)

² Foreign and Commonwealth Office, (2010) *Review of conflict related International Policing*, London: HMSO.

See page 25, para. 5.2: ‘...UK policing is highly regarded and in demand overseas, particularly in the areas of leadership, community based policing and training. The service has an extensive range of professional skills and expertise capable of carrying out most of the roles now required in international missions and operations’.

Written in the narrative

This is not the usual law text on gun laws but rather, it is written in the narrative as was Michael Levi's book on fraudsters (namely *Phantom Capitalists* which was re-published by Ashgate in 2008). It is an admirable way of recounting from the mouths of the armed police, the way they felt, and what they were thinking as they were in a situation and in confrontation of the suspect; and their understanding of the law. The book becomes exceedingly gripping, as the reader is transported to the crime scene with these authorised police killers who are there to do what they are trained to do.

Policing the United Kingdom with guns

Thankfully, British police hardly shoot anyone dead very often. The ethos of policing in the United Kingdom is of policing with consent. Policing with consent used to be the British way of policing public order. During official protests, it is often criminals who use the protest to commit criminality. Simultaneously, the police use the protest to gather intelligence. Policing with consent is a method of policing which recognises that policing is most successful when it is based on the active and voluntary participation of all members of the community. Then, communities tend to be more committed to tackling social problems. Policing with consent helps to build a safe, just and tolerant society, thereby increasing feelings of security and

reducing fear of crime. However, it is common knowledge that in areas of high unemployment, high ethnic minority population and high deprivation, the British police abuse their powers of 'stop and search' and other harassment techniques, especially in the metropolitan area of London where they remain extremely harsh in their treatment of the minority population for any little incident.

Protests

Protests can quickly lead to criminality and anarchy if they are not professionally policed by a Public Order Commander with specialist knowledge- an officer within the ACPO Public Order Working Group. This working group includes representatives of other relevant agencies such as the Independent Police Complaints Commission ('IPCC').

IPCC

There is much criticism of the toothlessness of the IPCC. Some people say that the IPCC does not have the expertise to handle death by police shooting. It is of note (see page 143) that in 2010, the Home Affairs Committee reviewed the record of the IPCC and found that an astonishingly low 1% of complaints to the IPCC were directly investigated by the IPCC itself, meaning that 99% of complaints to the IPCC were investigated by the police. This situation is astonishing. It means that police involved in the matters complained of investigate their own complaints, making a sham of the agency named IPCC. In fact

the IPCC chairman was a former Metropolitan Police Officer (Nicholas Long).

Police Oversight Bodies

To be fair, it must be mentioned that there are police oversight bodies in England and Wales (since 2003) and in Northern Ireland (since 2000) and in Scotland (since 2009). Whether the public is informed widely about the existence of police oversight bodies is another matter. The mandate of the police oversight bodies includes the investigation of any police use of firearms which leads to an injury or death.

Issues still unresolved

The fretful issue of police officers wearing apparatus with only partial markings, and indeed no markings in some cases, is still with us, meaning that, were it not for the 'due diligence' of professional media, such death as the recent appalling death of Ian Tomlinson going about his own business on the day of the G20 protest would have been closeted in lies and misrepresentations to this day, blessings heaped forever on newspaper staff who pursued this matter to its truthful end. The Guardian newspaper obtained video footage which revealed that Ian Tomlinson was struck on the leg from behind by a police officer wielding a baton, and he was then pushed to the ground by the same police officer, with no provocation from the victim (the now deceased Mr Ian Tomlinson) who had

simply been walking home with his hands in his pockets. The victim passively walked away after suffering this police brutality and collapsed and died moments later.

‘Force Number’ but no ‘Officer Number’ markings

An example of partial markings occurs when the police force number but not the officer’s individual number, is visible. Nevertheless this should not stop any action of corporate manslaughter against that police force, even though the individual officer cannot be pinpointed visibly; there is always an audit trail that will lead to that officer sooner or later.

Awareness of police shootings depends on newspapers

Another issue is the fact that there is no central logging of complaints against the police, which is simply a matter of ‘kicking their heels’ since this is a simple technological problem to solve. Therefore there is no way, except by sheer luck, of ascertaining whether a police officer who has shot and injured someone previously has erred again, as there is provided for the citizen in the bad character laws in the Criminal Justice Act 2003.

No research on police use of ‘shoot to kill’ policy

There has been extensive research conducted over decades on all facets of gun crime, but none on armed police response and shoot to kill policy. There is research aplenty on gun toting organised criminals (Decker and Curry, 2002) the role of

firearms in violence (Wilkinson and Fagan, 1996); juvenile ‘gunslingers’ (Ruddell and Mayes, 2003); possession and use of illegal guns (Hales, Lewis and Silverstone, 2006); the use of firearms in robbery (Jacobs and Wright, 1999); and even of gunshot injuries to the extremities (Persad, Reddy, Saunders and Patel, 2005). This is a very disturbing state of affairs as it indicates that there is a universal assumption that the authorities must shoot to kill in order to protect property, money or people. It seems to fly in the face of instinctive humanity even though the situation complies with the 1950 Convention on Human Rights, Article 2, which grants exception to the right to life.

Exceptions to the right to life

Article 2 protects the right of every person to their life. The first paragraph of the article contains an exception for lawful executions, and the second paragraph provides that death resulting from defending oneself or others; arresting a suspect or fugitive; or suppressing riots or insurrections, will not contravene Article 2 when the use of force involved is ‘no more than absolutely necessary’:

‘Article 2 – Right to life

- 1. Everyone's right to life shall be protected by law. No one shall be deprived of his life intentionally save in the execution of a sentence of a court following his conviction of a crime for which this penalty is provided by law.*
- 2. Deprivation of life shall not be regarded as inflicted in contravention of this article when it results from the use of force which is no more than absolutely necessary:*

- a. in defence of any person from unlawful violence;*
- b. in order to effect a lawful arrest or to prevent the escape of a person lawfully detained;*
- c. in action lawfully taken for the purpose of quelling a riot or insurrection.'*

Police shot dead Mark Duggan, thus causing England's 2011 riots

Mark Duggan was only 29 years old and he was a father of young children. He was in a car being followed by police during a covert operation on Thursday 5 August 2011. Armed officers shot Mark Duggan dead seconds later. Residents said that they heard several shots fired when officers swooped on Mark Duggan during the London evening rush hour at about 18:15 hours. *Haringay Independent* newspaper reported that Mark Duggan's funeral is to take place on 9 September 2011, one month after he was killed by one police marksman.³ The newspaper repeated a confirmation from the IPCC. Mark Duggan had not fired a gun at the police before they shot him precisely to death. The police fired the bullets and hit Mark Duggan on target, killing him instantly.

³ Tristan Kirk, 'Tottenham man Mark Duggan shot dead by police to be buried next Friday', *Haringay Independent Newspaper*, 2 September 2011.

How many British Police are shot to death by criminals?

A list can be constructed on the police shot dead:

1. In May 2007, Police Constable Richard Gray was shot dead at a house in Shropshire. The 43-year-old police officer was allegedly gunned down with a .22 calibre rifle by Peter Medicott.⁴

UK 'Shoot to kill' policy is an abuse of emergency powers

British police have a 'shoot to kill policy'. It remains intact under the aegis of potential terrorism since emergency measures were put in place after the New York '9/11' terrorist outrage, although it did not foresee or stop the London bombings in July 2005. This state of emergency can be abused by being invoked to allow a country to suppress internal opposition without having to respect human rights.

ACPO Guidance

In the 2007 ACPO guidance on protective services, during emergency situations or where guns are being used, the guidance states that:

⁴ Martin Beckford, 'Police killed after confronting gunman', Telegraph, 11 June 2007.

‘.. the police force that responds must take direction from a senior ACPO ranking officer in respect of the police use of firearms. It is assumed that the police force has an annual ‘Threat and Risk Assessment Process’ in place to take on the role of Gold, Silver and Bronze Commander, Tactical Advisor and Authorised Firearms officer available to deal with firearms incidents and operations. As well as conventional firearms, a range of less lethal options should be readily available and either carried by officers or contained within Armed Response Vehicles for deployment to firearms incidents and operations. This should include Attenuated Energy Projectiles and TASER, in addition to each officer’s personal protection equipment such as CS spray/PAVA and baton; trained dogs and dogs trained to work with armed officers.’

Emergency measures over many years is an ‘abuse of process’

One may argue that the emergency measures in place in Northern Ireland for so many decades were an ‘abuse of process’. One might argue that the UK police ‘shoot to kill’ policy is also an ‘abuse of process’ in that it is an abuse of executive power, although this matter cannot be raised until a case goes to court. In 1971 the British Army and the Royal Ulster Constabulary (‘RUC’) arrested and imprisoned without trial many persons they believed were paramilitary members and in so doing, the British Army and the RUC shot and killed 11 civilians and imprisoned 342 people, leading to widespread

protests and rioting. The European Court of Human Rights in Brussels found the UK guilty of torture of these prisoners in Northern Ireland in the treatment they suffered in prison. The case that went to Brussels was due to Royal Ulster Constabulary's interrogation techniques, under the supervision of the British Army. The police applied five well-established torture techniques: hooding, wall-standing; subjection to noise; deprivation of food and water; and deprivation of sleep.

Violence begets violence

Like the 'emergency measures' in force for decades in Northern Ireland- the 'shoot to kill' policy of the UK police only serves to feed the mindset of criminals and others who also arm themselves- just in case. Violence breeds violence. It puts the fear of God into me when I visit Portcullis House in London and face armed police officers at the entrance. I am black and it is easy for an armed policeman to pull a trigger of a machine gun. In error or not, one would be quickly dead, never to be revived. I say we should not follow the Americans and others, lest we also fall prey to their sorrows- every day police officers in the US are killed because the public are free to own guns as are the police. Gunslingers we are not. We are a civilised society and we must sort out our problems of youth malaise in a civilised way. After all- we stopped the slave trade; let's now stop illegal gun use and cease the UK police 'shoot to kill' policy.

Conclusion

The book also includes a list of abbreviations, an index and a useful list of police ranks. It is a very relevant law book in view of the shooting dead of a young man in Tottenham, this event being the tinderbox used to light the high-tension disorder in Tottenham in August 2011, a disorder which quickly escalated into arson and looting and the death of several innocent persons. Maurice Punch has written a relevant and very accessible book on the 'shoot to kill' policy of British police. He has removed most of the legal jargon and format and therefore created an accessible book for all those who wish to understand the topic and to take part in the debate on the UK police 'shoot to kill' policy. All those who wish to understand the recent events of rioting and the preceding shooting ought to read this book.

Sally Ramage

Editor of *The Criminal Lawyer*

Copenhale, Coppenhall, Stafford.