

Was this wilful neglect and misconduct?

ON JULY 11, 10 West Midlands' police officers appeared in Birmingham Crown Court over their role in the death nearly 2 years ago of Mikey Powell.

Eight of the officers face charges of misconduct in a public office, while another two face charges of dangerous driving and battery.

At the hearing, lawyers acting for West Midlands Police tried to persuade Powell's family to drop the charges, or to move any subsequent trial of the 10 police officers to a crown court outside of Birmingham for fear of prejudice. Powell's family is adamant that the police officers should be tried before a jury in Birmingham.

In the early hours of September 7, 2003 West Midlands Police were called to deal with a disturbance at Powell's family home in the Lozells area of Birmingham.

Powell's mother had become increasingly concerned over her son's erratic behaviour brought on by a bout of depression and she thought that attending officers would offer support to calm him down or provide some form of psychiatric help.

Tragically, the phone call turned out to be the worst decision she has ever made.

Police in the West Midlands are on trial for a black death in custody **Neil Hodge** reports

Officers arrested Powell outside the house for causing a disturbance and took him to Thornhill Road police station. Within two hours, her son was pronounced dead at Birmingham's City Hospital.

The events leading to Powell's arrest are still disputed. At the time, West Midlands Police said they had been asked to investigate reports of a break-in, although just three days later the Police Complaints Authority was forced to issue a statement confirming that "there was no question of him trying to break into the house".

Witnesses have claimed that there was a violent struggle between Powell and the police. According to Powell's family, up to eight officers attended the scene "mob-handed". Other witnesses have said that a number of officers struck Powell with batons, sprayed him with CS gas and handcuffed him before taking him away in a police van.

One piece of evidence which has not been disputed, however, is the fact that Powell was hit by the police car first attending the

scene, which is likely to have caused the struggle. The police have also confirmed that he had sustained cuts before he was detained. An inquest later found that he only suffered minor injuries from the collision and that it was unlikely to have been the cause of his death.

Powell, a 38-year-old factory worker and a father of 3 young children, had no previous criminal record or any history of trouble with the police.

Following Powell's death, Northamptonshire Police conducted an inquiry to establish whether officers acted lawfully when they made the arrest. When the Crown Prosecution Service announced that charges were being brought against the 10 officers in January this year, Paul Tonks, chairman of the West Midlands Police Federation, said: "It goes without saying the officers totally refute the allegations that have been made against them and the evidence will be thoroughly tested. The federation will continue to support them and they will be assisted throughout the process, a process that not only causes them great stress, but also their families."

The charge of "misconduct in a public office" is a serious offence which can only be heard at a Crown Court and carries a maximum sentence of life imprisonment.

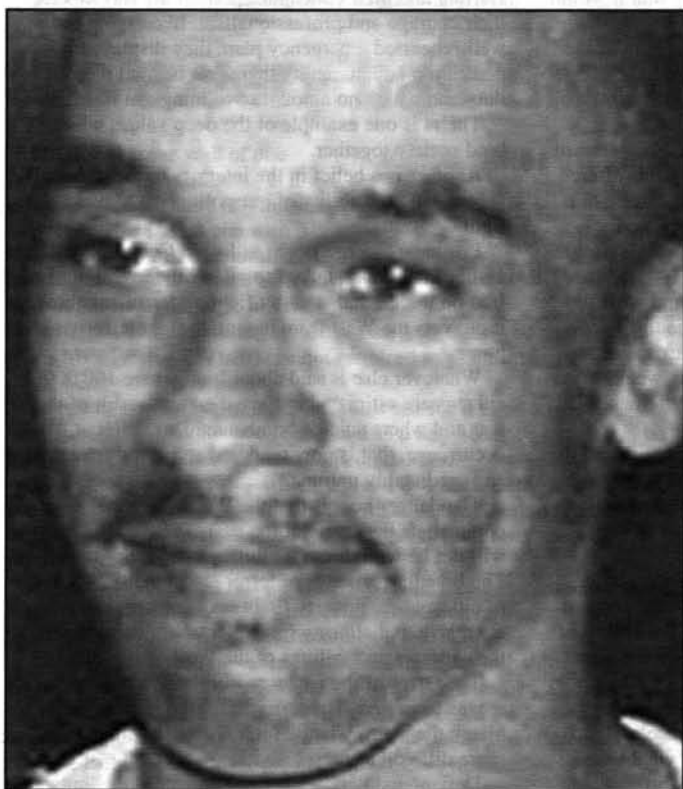
However, prosecutors must show that the accused acted in the knowledge of, or with reckless indifference, to the fact that their actions would cause harm and continued to act with that in mind.

The officers and the charges against them are as follows. PC Timothy Lewis and PC David Hadley: dangerous driving and battery of Michael Powell; Inspector Anthony Guest: wilful neglect to prevent excessive restraint of Michael Powell and wilful neglect in seeking hospital treatment for Michael Powell; Sergeant David Williams: wilful neglect in taking reasonable steps to respond to deteriorating condition of Michael Powell upon his arrival at Thornhill Road Police Station and wilful neglect to take reasonable steps to ensure that emergency resuscitation procedures were commenced at Thornhill Road Police Station;

PC Christopher Wilson: wilful participation in the excessive restraint of Michael Powell, wilful neglect to prevent excessive restraint of Michael Powell and wilful neglect in seeking hospital treatment for Michael Powell; PC Nigel Hackett: wilful participation in the excessive restraint of Michael Powell, wilful neglect in taking reasonable steps to respond to deteriorating condition of Michael Powell and wilful neglect to take reasonable steps to ensure that emergency resuscitation procedures were commenced at Thornhill Road Police Station; PC Steven Hollyman: wilful misconduct or neglect to perform his duty in respect of his treatment of Michael Powell and wilful participation in the excessive restraint of Michael Powell; PC Lee Howard: wilful misconduct or neglect to perform his duty in respect of his treatment of Michael Powell, wilful neglect in taking reasonable steps to respond to deteriorating condition of Michael Powell upon his arrival at Thornhill Road Police Station and wilful neglect to take reasonable steps to ensure that emergency resuscitation procedures were commenced at Thornhill Road Police Station; PC Andrew Edwards: wilful neglect in taking reasonable steps to respond to deteriorating condition of Michael Powell upon his arrival at Thornhill Road Police Station and wilful neglect to take reasonable steps to ensure that emergency resuscitation procedures were commenced at Thornhill Road Police Station; and PC Luke Gill: wilful neglect in taking reasonable steps to respond to deteriorating condition of Michael Powell upon his arrival at Thornhill Road Police Station and wilful neglect to take reasonable steps to ensure that emergency resuscitation procedures were commenced at Thornhill Road Police Station.

However, the Powell family are realistic of their chances of securing convictions against any of the officers involved. According to Inquest, there have been 590 deaths in police custody since 1994, 79 of whom were black.

Further, the only successful prosecution against the police for a death in custody was 34 years ago when in 1969 David Oluwale was harassed and beaten by two Leeds police officers and drowned in the River Aire.



MIKEY POWELL: father of three, no previous criminal record, pronounced dead after just two hours in a police cell