

INQUESTS INTO THE DEATHS OF ANTHONY WALGATE, GABRIEL KOVARI, DANIEL WHITWORTH AND JACK TAYLOR

PRE-INQUEST REVIEW

10TH JULY 2020 AT THE CENTRAL CRIMINAL COURT

1. On 10th July 2020 I presided over a pre-inquest review via the Cloud Video Platform (CVP). I was present in Court 12 together with 2 court clerks and the Solicitor to the Inquest (STI), Mr Oliver Carlyon. There were a number of representatives of the press also present in the Court. The advocates, interested persons and other participants were “present” via CVP.
2. Counsel to the Inquests (CTI), Mr Andrew O’Connor QC and Miss Cicely Hayward had prepared written submissions in advance of the hearing. I had also considered with care written submissions from those representing the families, Mr Waumsley, the Metropolitan Police (MPS) and the Borough Officers.
3. In court I heard oral submissions from those representing all the above, beginning with Mr O’Connor and then Mr Clarke on behalf of the families, Dr Van Dellen on behalf of Mr Waumsley, Mr Skelton QC for the Metropolitan Police and Mr Gibbs QC for the officers.
4. Mr O’Connor took me through the agenda as follows.

Housekeeping

5. I noted that the expert witness Ms Mackay’s report will be completed within the next few weeks.
6. All agreed that a further PIR should be held in September 2020. The format of that hearing will depend upon the restrictions, if any, then in place. At that hearing final directions can be given with regard to witnesses and the timing and location of the Inquests. At present we are all working on the

basis that the Inquests will be held, as planned, in January 2021. Mr Skelton pointed out the pressure which the MPS are currently under due to frontline policing and a reduction in staff. However they will endeavour to comply with their disclosure responsibilities as soon as possible in order that the Inquests are not delayed. Mr Gibbs drew my attention to the practical difficulties which would arise were the current restrictions still in place in January.

7. It is, in my view, too early to say whether we can go ahead in January. We all hope that we can do so. By the next hearing there will be more certainty. The Inquests Legal Team (“ILT”) will circulate a detailed note prior to the next PIR for the consideration of interested persons.

Disclosure

8. There are two elements to disclosure in the context of an inquest: (1) disclosure to me and (2) disclosure by me. I am satisfied that both elements are well-advanced. Disclosure to Interested Persons has been ongoing since November 2019. Mr O’Connor has set out the categories of disclosure at paragraph 12 (a) to (f) of his first submissions. The process is almost complete and I am very grateful to the families and to the police officers who have worked so hard in difficult times to complete their respective tasks.
9. I was invited to direct that all Interested Persons, (1) confirm in writing by 28th August 2020 that they are not aware of any further documents that are potentially relevant to the provisional list of issues appended to my Order of 15th November 2019 and (2) specify as soon as possible and with precision any shortcomings in the evidence so far disclosed.
10. A number of topics were raised under this heading.

11. Mr Clarke, on behalf of the families sought disclosure of the recordings of the Inquests held by Ms Persaud into the deaths of Mr Kovari and Mr Whitworth. CTI pointed out that there are full transcripts of the Inquests and, absent any suggestion that the transcripts are incomplete or inaccurate, there is no need for the recordings to be obtained and disclosed. There is one discrete area upon which a further statement is to be obtained from DI Schamberger and that relates to a conversation which he had with Ms Persaud in which he states that they did not discuss the deaths “at any length.” I have proposed and CTI have agreed that it is appropriate to obtain a statement from DI Schamberger setting out the detail of that conversation.

12. Mr Clarke also argued (both in writing and orally) that disclosure should include material going to the conduct of the original inquests in addition to that which has already been disclosed which includes evidence of what information and documentation was provided to the Coroner and the questions asked by the Coroner and her officers of the investigating officers. Mr Clarke sought to argue that further disclosure is necessary in order to negate any assertion that the alleged shortcomings in the police investigation are the responsibility of the Coroner and/or her officers and to ensure the police explanations for their conduct can be properly examined. Mr Clarke mounted a similar argument in relation to the CPS’ involvement in the decision making process.

13. I sought confirmation from Mr Skelton and Mr Gibbs that there was no intention on the part of any of their clients to cast blame for any shortcomings upon either the coronial investigation nor on the CPS. They each gave me a firm assurance to that effect.

14. Mr O’Connor proposed that statements should be provided by MPS setting out the framework of and relationship between police and coroner and

police and CPS following a suspicious death so that the jury will understand the processes and overlap between the 2 types of investigation.

15. As a secondary submission, Mr Clarke, supported by Dr Van Dellen, sought to persuade me to revisit my decision that the scope of these inquests could not include the conduct of Ms Persaud's Inquests. That was a brave submission bearing in mind that the proceedings for judicial review of that decision were not pursued. I emphasise that I make no criticism whatsoever of the families in that (or any) regard.

16. Mr Clarke, in his written submissions sought disclosure of British Transport Police material. He accepts that that material has already been disclosed. He also sought disclosure of all CCTV seized as part of Operation Lilford (the murder investigation into Stephen Port). He no longer pursues that request.

17. Before returning to the direction in relation to disclosure, I will deal with Mr Clarke's submissions.

18. There is no merit in the suggestion that disclosure of further Coronial investigative material is required. I am satisfied that full disclosure either has been made or will shortly be made of all the transcripts and of communications between the Coroner and her officers and the investigating police officers (I understand that the Coroner's file relating to Mr Walgate's death will be disclosed on Relativity next week). At least as matters presently stand, I do not accept that any further disclosure is merited or permissible within the scope of these Inquests. I have been told that there is to be no criticism by any of the individual police officers nor by the MPS of either the Coronial investigation or the CPS. In those circumstances, Mr Clarke's attempts to use such purported criticism to broaden the scope are without justification.

19.As to the suggestion that I should review my decision in relation to the original inquests, there is no question of my doing so. My decision, which was a decision of pure law and which has not been reviewed, stands.

20.Mr Skelton sought an amendment to the wording of the direction sought so that it reads: Interested Persons and stakeholders, having conducted reasonable and proportionate searches, must assure the ILT that proper disclosure has been made.” Mr O’Connor was content with that amendment.

21.Having considered all the submissions on this topic with care I have concluded that:

(1) The ILT have approached and conducted disclosure entirely properly and have (or will very soon have) obtained and disclosed all material currently assessed as relevant to the provisional list of issues.

(2) There will be no review of my decision by me. My decision was final. The matter is closed.

(3) There is no merit in the suggestion that the scope should be widened to include the CPS.

(4) There will be generic evidence to explain the coronial and prosecuting processes for the jury. That evidence should be provided by an appropriately qualified MPS officer.

(5) I direct that:

(i) Interested Persons and stakeholders, having conducted reasonable and proportionate searches, must assure the ILT in writing that all potentially relevant documents identified by their searches have been disclosed to me, by 28th August 2020;

- (ii) **All Interested Persons must as soon as possible indicate any suggested shortcomings in disclosure made to interested persons (within the limits of the provisional list of issues and my rulings herein) with precision and in writing.**

Further Witnesses

22. Mr O'Connor set out the position at paragraph 17 of his initial submissions. The ILT have identified a number of police officers (listed at Annex A to his submissions) from whom statements are to be taken. The process is under way. That process has revealed potential conflicts of interest and a number of officers are now to be separately represented which will result in some delay in the provision of their statements. The firm plan is that those statements will be available by the date of the next PIR. I am aware that some of the solicitors involved have only recently been instructed and that different considerations may apply to the timing of different statements. I also recognise the current pressures and am sure that all are working hard to achieve completion as soon as possible. I therefore do not propose to make a formal direction in this regard. What I will say is that I expect all the further statements to be provided in good time for the next hearing. I will leave it to STI to discuss timings with the individual solicitors involved and will of course make a formal direction if that becomes necessary.

Witness List

23. All Interested Persons have helpfully responded to the witness lists and there is a large level of agreement as to witnesses to be called and read.

Pen Portraits

24. Having heard submissions in relation to Pen Portraits, my provisional view is that all such evidence should be given at the outset of the Inquests. That

reflects the preference that has been expressed on behalf of the families. I note that the written submissions filed on behalf of Mr Waumsley prior to the hearing indicated a preference that his pen portrait evidence should be given during the chapter of evidence addressing Mr Whitworth's death. Those submissions, however, were filed without sight of the families' submissions. It does seem to me that it would be much preferable for Mr Waumsley's pen portrait evidence to be given at the same time as the evidence of that nature to be given by the families. And I see force in the submission that since Mr Waumsley is to be called to give factual evidence of a possibly contentious nature during the chapter of evidence relating to Mr Whitworth's death, it would be preferable for his pen portrait evidence to be given much earlier in the proceedings. I make no ruling on this matter now, but I invite Mr Waumsley to consider the matter further. I hope that he will agree with my provisional view that his pen portrait evidence should be given at the outset of the inquests. If necessary I will hear further submissions on this point at the hearing in September.

Taylor Chapter

25. There is an issue as to the nature of the evidence to be given in the chapter dedicated to the death of Jack Taylor. It is right to observe that the investigation into Jack Taylor's death cannot have impacted upon the investigations of the other 3 nor on his own death.
26. However, having considered submissions made on this topic, I have provisionally concluded that **oral evidence should be heard in relation to Jack Taylor** for 2 reasons:
 - (i) There may be features of the investigation into his death which highlight failures in the earlier investigations and will assist the jury to understand the evidence in relation to the investigations into the first three deaths; and

- (ii) Evidence relating to the investigation into Jack Taylor's death may be relevant to any Prevention of Future Deaths report.

27. A final decision on this topic will be made at the PIR in September 2020.

DI Richards

28. I agree that **DI Richards** will be a witness of fact only and not an expert witness. He will not be asked for his opinion on alleged failings. The expert role is to be taken by Ms Mackay.

29. I will reach a final decision as to how DI Richards' evidence should be presented (in one go or at different times) at the next PIR.

Police Policies and Procedures

30. Mr O'Connor submitted that evidence of MPS Policies and Procedures should be given by a MPS officer and not by the expert Ms Mackay, who is/was not a MPS officer.

31. Mr Gibbs argues strongly and persuasively to the contrary. He submits that I should question the purpose of the witness on this topic. Are they simply to exhibit the policies and procedures or are they to seek to explain them? If the latter, how can that be done without a gloss being placed on them by the officer. Mr Gibbs argues that this topic should be covered by a witness entirely disinterested and visibly disinterested in the facts which may follow. They therefore cannot be a witness chosen by the MPS.

32. Having heard those submissions Mr O'Connor suggested that I adjourn consideration of this matter until after Ms Mackay's report is available and further dialogue has taken place. At this stage Mr Skelton agrees that an MPS officer should provide a statement exhibiting the policy documents and dealing with the relationship between police and Coroner and police and CPS, although he supports Mr Gibbs' submission that it would not be appropriate for that (or any) MPS officer to give oral evidence explaining

the policies (and perhaps also those relationships) to the jury. He hopes that that statement will be available soon but by the next PIR at the latest.

33. I agree that it is appropriate to defer further consideration of this issue. I will review this topic and give a final determination upon it at the next PIR.

Rule 22

34. This topic was raised by Dr Van Dellen but is not pursued at this stage. Dr Van Dellen accepts that, if pursued, it must be supported by full written submissions. **I so direct.**

Further Interested Person Applications

35. There is no extant application for interested person status. **I direct that any such applications must be made by 14th August 2020.**

HHJ Sarah Munro
Assistant Coroner
21 July 2020