

Her Majesty's Coroner for South Yorkshire (East) and West Yorkshire (West)



**INQUESTS INTO THE DEATHS RESULTING FROM THE HILLSBOROUGH
STADIUM DISASTER**

**DETAILED RULING BY LORD JUSTICE GOLDRING AS TO TIMING
FOLLOWING THE PRELIMINARY HEARING ON 25 APRIL 2013**

TIMING OF THE INQUESTS

Introduction

1. At the first preliminary hearing on 25 April 2013 I ruled that the inquests should not await the outcome of the criminal investigations which are currently underway. They should take place in early 2014. I did not fix a start date. I now, briefly, give my reasons for this decision.

The criminal investigations

2. It is 24 years since the Hillsborough disaster. As I set out in the observations I made at the beginning of the hearing, there have been many investigations. There are now further criminal investigations. They comprise an IPCC investigation into the actions of the police and the alleged cover-up, and a police investigation led by Assistant Commissioner Stoddart into the causes of the tragedy and the deaths. To the extent that the police investigation concerns the conduct of police officers, it is being treated as a managed investigation under the aegis of the IPCC. Mr. Stoddart's investigation

will be wide-ranging. Its scope is set out in the "Investigative Strategy" which Mr. Stoddart has helpfully provided to interested persons. I need not repeat it here.

3. The IPCC independent investigations are said to be "still in their early stages." The IPCC is recruiting staff. It expects to have a total complement of 70-100 people. It has not yet moved into new office premises which are being fitted out in Warrington, although it hopes to occupy them "within the next few weeks." It is said that the IPCC independent investigation is "likely" to take two years to complete.
4. Mr. Stoddart too is in the early stages of his investigations. So far he has some 30 officers working on the inquiry. He wants over 100 further investigators. In his letter of 11 April 2013 he speaks of up to 170 people working on the investigation team. He anticipates moving into the new premises, which will be shared with the IPCC, in Warrington in June 2013. As to the completion of the investigation, Mr. Stoddart states that it "is likely to last at least 2 probably 3 years."
5. I suspect the timescales may be optimistic. Any prosecutions (and possible appeals) would be after that. Deferring the inquests until after criminal investigations and proceedings would therefore result in an open-ended delay, probably of several years.

The argument

6. Mr. Greaney QC, on behalf of the Police Federation, supported by Mr. Beggs QC, on behalf of former Chief Superintendents Duckenfield and Greenwood and former Superintendent Marshall, emphasised the risks of holding the inquests before the investigations have been concluded. He submitted that the inquests should not start until the investigations have been concluded. As Mr. Beggs succinctly put it, expedition must not cede to thoroughness and fairness.
7. The first point Mr. Greaney made was that the materials gathered by the Hillsborough Independent Panel were only the starting point for the investigations. There was much more for Mr. Stoddart (and no doubt the IPCC) to investigate. Ms Leek QC on behalf

of Mr. Stoddart had made that clear in her submissions. There was therefore a real prospect that decisions will be made and verdicts returned on a partial and possibly flawed basis.

8. In my view, this aspect needs to be considered with a degree of realism and common sense. Over the past 24 years there have been many investigations. A massive amount of material has been amassed. Of course, it is not complete. (It never could be). Where there are significant gaps relevant to the inquests, every effort will be made to fill them. As Ms Lambert QC, leading counsel to the inquests suggested, the risk of such new evidence coming to light can be reduced by a working relationship being established between the inquests team and both Mr. Stoddart's team and the IPCC. Mr. Stoddart's work can be prioritised to reflect what is needed for the inquests. He has offered to assist in this regard. Albeit Mr. Stoddart's preference is for the criminal investigations to have been completed prior to the commencement of the inquests, he has said that he should "[be] in a position to assist the Inquest [sic] to commence in early 2014."
9. Moreover, while no doubt recognising that holding the inquests before the investigations are concluded is not without risk of this kind, all those representing the families have strongly urged upon me that they should proceed sooner rather than later.
10. I should add this. It has been suggested to me, particularly, but not solely, by Mr. Mansfield QC on behalf of the families of 71 of those who died, that primarily for reasons of independence I should have my own discrete team of officers (or other investigators) to act as coroners' officers. Now is not the time to go into the detail of that submission. Suffice to say that if I did have my own team of investigators, while my relationship with Mr. Stoddart might be different, it would not affect my view on this aspect.
11. The second point Mr. Greaney made was that if the inquests take place before the investigations have been concluded and decisions on possible prosecutions taken, there would be an increased likelihood of witnesses invoking the privilege against self-incrimination as presently reflected by Rule 22 of the Coroners Rules 1984. The

police witnesses (and possibly others too), would be put in an impossible position. They would either have to answer the questions put to them and rehearse their defence to potential criminal charges or face criticism for remaining silent. An adverse inference might then be drawn against them.

12. I accept that some witnesses may seek to refuse to answer questions by invoking the privilege against self-incrimination. However, this needs to be put into proper context.
13. First, a witness may only refuse to answer a specific question if it appears to me that to do so would tend to incriminate him. It is questionable whether, among the many people at Hillsborough that day, or involved in events leading up to it, there are a great many potential candidates for prosecution. Further, as the Director of Public Prosecutions has made clear, it should be possible, by close liaison between the Director, the witness and the inquests team to ensure (as the Director put it) that "...there is clarity for potential witnesses as to their position." The investigations can be prioritised in such a way as to help that.
14. Second, the fact a witness has been told that it is not intended to prosecute him does not mean he will answer a potentially incriminating question. He would have the same privilege irrespective of the indication he had received, and he might very well choose to exercise it anyway. For as he would know (and be advised) the Director can always review any decision taken on prosecution in the light of further evidence.
15. Third, I do not accept that witnesses would be put in an impossible situation. If I am satisfied that a witness may properly refuse to answer a question, I would make it clear that is his entitlement according to the law. In such circumstances it would not be right to hold his refusal against him.
16. Fourth, most of the witnesses made statements at the time. Many have given evidence to Lord Justice Taylor and/or at the previous inquests. It may well be the jury could have those statements and therefore the account made at a time when the witness's recollection was much better than now. In other words, in such cases the jury would not be entirely deprived of the witness's evidence.

My conclusion

17. If the inquests do not take place until after the conclusion of the investigations (let alone any prosecutions), many more years will have elapsed. Even the year when they would probably take place could not sensibly be identified now. In my view, that would be wholly unsatisfactory. The bereaved families have not ceased in their pursuit of a full understanding of the disaster. Some family members have died. Many are no longer young. Now to have these inquests heard on some uncertain date many years in the future would not be to do justice for them. No doubt, that is why the Divisional Court expressed its “earnest wish...that the new inquests shall not be delayed for a moment longer than necessary.” Moreover, there is a wider public interest in inquests progressing without unnecessary delay, as section 8 of the Coroners Act 1988 implicitly recognises. As counsel to the inquests point out, that is especially so where, as here, there is strong public interest in the subject matter of the inquests.
18. Having said that, it is important, as Ms Lambert emphasised, for everyone to recognise that there are risks with proceeding sooner rather than later. However, as I have explained, those risks need to be put into proper context and properly managed.
19. A number of the interested persons submitted I should fix a start date for the inquests in January 2014. Such a date could always, it was said (or implied) be re-visited when the picture was clearer. My view is that when a date is set, it should be realistic. To set a date with the tacit understanding that it would be likely to change virtually amounts to setting no date at all. By the time of the next preliminary hearing on 5 June 2013 Mr. Stoddart and the IPCC should be in the position to set out in respect of topics plainly relevant to the inquests, a realistic, detailed and specific timetable (as Mr. Beggs suggested). I anticipate liaison between counsel and solicitors to the inquests and Mr. Stoddart and the IPCC to that end. If that happens, it may be that I can set a realistic date. However, as everyone will appreciate, the precise start date will depend on a number of considerations, including how quickly comprehensive disclosure can be given to all interested persons; how soon a suitable venue can be identified, procured and fitted out; and whether there is a need to make arrangements for my own

separate investigative team to be appointed.

Lord Justice Goldring

2 May 2013