



## **IN THE MANCHESTER CORONER'S COURT**

### **INQUEST into the death of JACK ANDERSON BARNES**

#### **RULING on disclosure to the MEDIA of CCTV/BODYCAM recordings**

##### **Introduction**

1. Jack Anderson Barnes (“Jack”) was born on the 3<sup>rd</sup> November 1987 and died on the 2<sup>nd</sup> December 2016. The Coronial investigation into his death began on the 3<sup>rd</sup> December 2017. After a long police investigation, the relevant evidence was supplied in the summer of 2019 to my office. Following several preparatory steps and two Pre-Inquest Review Hearings a final inquest hearing was commenced on the 2<sup>nd</sup> March 2020 before a jury. Oral evidence was heard from 17 witnesses as well as documentary evidence being admitted. The hearing had to be stopped and the jury discharged due to the Covid19 pandemic.
2. A further Pre-Inquest Review Hearing was held on the 18th September 2020. After hearing submissions from all interested persons represented at that hearing I directed that, with the agreement of all interested persons that a new inquest hearing would take place starting on 18<sup>th</sup> January 2021 and that it should be heard by a Coroner sitting without a jury and that the transcript of all the evidence at the original inquest hearing should be admitted in evidence under Rule 23 of the Coroners Inquests Rules 2013 without any witnesses being recalled.
3. I ruled that it was appropriate to allow the agreed transcripts of the evidence given under oath or affirmation before me at the aborted Inquest to be admitted in documentary form without the need to read the transcripts aloud in order to put them into evidence. I made this order under my broad case management powers and in order to save time and expense in circumstances where the transcripts were agreed.
4. A further 2 witnesses gave evidence at the hearing that commenced on the 18th of January 2021 and one of these was an expert witness. In total I heard evidence from 5 expert witnesses. The hearing was conducted by live Video Link. In total I heard and/or received evidence from a total of 19 witnesses. During the hearing CCTV and Body cam recordings were played in open court. Due to the Covid 19 pandemic when the new inquest began on the There was only limited access for members of the public, media/press to attend the court to observe the proceedings and that would involve watching the CCTV/ Body cam recordings.

## **Identity and representation of the interested persons on the 26<sup>th</sup> February 2021**

5.
  - Jack's Mother, sister and other close family members represented by Mr. Powell
  - Mr. Stephen Rowlands ("Mr. Rowlands") Mr. Matthew Sellers (" Mr. Sellers"),Mr. Paul Fogarty ("Mr. Fogarty") and Mr. Brian James Gartside ("Mr. Gartside") all represented by Mr. Livesey.
  - Palladium Associates Plc ("PALLADIUM") represented by Miss Judge
  - Metrolink Keolis Amey ("KAM") represented by Mr. Cropper
  - Metrolink RATP DEV ("MRDL") represented by Mr. Murphy
  - Transport for Greater Manchester (TFGM") represented by Mr. Simkin
  - The Security Industry Authority ("SIA") represented by Ms. Hayward

## **The Record of Inquest document**

6. The contents by reference to the numbered paragraphs including the particulars required by the Births and Deaths Registration Act 1953 to be registered concerning the death:
  1. Jack Anderson Barnes
  2.
    - 1a Bronchopneumonia
    - 1b Hypoxic-ischaemic encephalopathy
    - 1c Cardiac arrest triggered by a combination physical exertion, the effects of prolonged and the unreasonable amount of force used in restraint, pressure on the neck and consumption of synthetic cannabinoids.
  3. On the 11<sup>th</sup> October 2016 shortly after 23.30 hours at Victoria Station in Manchester City Centre the deceased assaulted two people and then made off. He was pursued and caught over 1,000 metres away on a wide pavement area adjacent to Deansgate. Grossly excessive and unreasonable physical force was used to restrain him and in combination with other factors this caused him to suffer cardiac arrest and consequent severe hypoxic brain injury. He died from the complications of that on the 2<sup>nd</sup> December 2016.
  4. The Conclusion of the Coroner: Unlawful Killing.
  5. Date and place of birth: 3<sup>rd</sup> November 1987, Hull.  
Name and Surname of deceased: Jack Anderson BARNES  
Sex: Male  
Date and place of death: 2<sup>nd</sup> December 2016 Hull Royal Infirmary, Anlaby Road, Hull.  
Occupation and usual address: No Fixed Abode

### **Regulation 27(2) of the Coroners Investigations Regulations 2013**

7. This states that the Coroner may provide any document or copy of any document to any person who in the opinion of the coroner is a proper person to have possession of it.

### **Article 8 ECHR**

8.
  - 1 Everyone has the right to respect for his private and family life, his home and his correspondence.
  - 2 There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.

Art. 8 ECHR guarantees the right to respect for private life, family life, home and correspondence. Its scope is very broad; it extends to many areas of life and has an impact on different legal fields reaching from family law to criminal law. The protection afforded by Art. 8 ECHR is not without limits. The rights enshrined in paragraph 1 may be interfered with subject to the conditions laid down in paragraph 2.

9. In accordance with this structure of Art.8, the usual and logical approach to scrutinizing cases, in which this article may have a bearing, is as follows: Firstly, it should be established whether there is an interference with the right to private life, family life, home or correspondence. To this end, it has to be established whether a certain measure, action or omission falls within the scope of one the interests, which Art.8 para 1 protects, and whether it has some impact on the way in which the rights can be exercised, whether it limits the extent to which the right can be enjoyed. Then it should be scrutinized as to whether this interference is justified pursuant to Art.8 para 2. Is the interference according to law and necessary in a democratic society.

### **Article 10 ECHR – Freedom of expression**

10.
  1. Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers. This article shall not prevent States from requiring the licensing of broadcasting, television or cinema enterprises.
  2. The exercise of these freedoms, since it carries with it duties and responsibilities, may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary.

11. This inevitably involves the right of the media to be able to access court proceedings and report upon them within the scope of the law. The right to freedom of expression, protected in Article 10 is not an absolute right. The basic approach taken in Article 10 is to define freedom of expression very broadly, so as to include almost every form of expressive activity, and also to define very broadly what constitutes an interference with the enjoyment of this right, thus casting an extremely wide prima facie net of protection. Certain interferences with this right are justifiable under Article 10.
12. The test for such restrictions, set out in Article 10(2), is strict, and is applied rigorously by the ECtHR . At the same time, the Court has recognised that Contracting States enjoy a certain margin of appreciation in deciding how they limit freedom of expression, based on factors such as their culture and history, as well as their legal system.
13. In other words, the Court will limit itself to a review of whether or not the approach taken at the national level gives effect to the right to freedom of expression. It will not, as a result, enter into an interpretation of local law or assessment of how it has been applied beyond what is required for the Article 10 assessment. The scope of protection afforded to freedom of expression has, in general, expanded over many years, both due to its treatment of new freedom of expression issues and due to a more robust understanding of the nature of this right. A good example of this is the Court's approach to the right to information, or the right to access information held by public bodies. While earlier decisions declined to recognise such a right, the Court has more recently broadened its understanding of Article 10, which now encompasses this right. A similar progression may be seen in relation to restrictions which aim to protect religious sensitivities, with earlier cases giving more weight to such sensitivities, while recent cases are more reflective of the diversity of beliefs, including non-religious beliefs, held in society, the importance of debate about these issues and the need to allow for criticism of religious institutions.

### **Important General Principles and the Chief Coroner Guidance No 25 – Coroners and the Media**

14. It is the duty of the Coroner as the public official responsible for the conduct of inquests, whether he is sitting with a jury or without, to ensure that the relevant facts are fully, fairly and fearlessly investigated. He is bound to recognize the acute public concern rightly aroused where deaths occur in custody. He must ensure that the relevant facts are exposed to public scrutiny, particularly if there is evidence of foul play, abuse or inhumanity. He fails in his duty if his investigation is superficial, slipshod or perfunctory. But the responsibility is his. He must set the bounds of the inquiry. He must rule on the procedure to be followed, His decisions, like those of any other judicial officer, must be respected unless and until they are varied or overruled.

#### **Open Justice**

15. It is often said that justice must not only be done but be seen to be done. Given the sheer number of cases going through the courts, their physical inaccessibility to the vast majority of people, and the complex material relied on in the majority of cases, for justice to be seen to be done requires that the public and media have access to court and access to the material underpinning public proceedings. Open justice in the modern age means more than merely a right to pass through the court doors.

16. The general rule of the common law is that justice must be administered in public at hearings which anyone may attend within the limits of the court's capacity and which the press may report (*Scott v Scott* [1913] AC 417; *Attorney General v Leveller* [1979] AC 440, at 470; *Khuja v Times Newspapers Ltd* [2017] 3 WLR 35, at [12])
17. A heavy burden lies on those seeking to displace the application of the open justice principle to show that the ordinary rule must be displaced and to do so on the basis of “*clear and cogent*” evidence (*Scott v Scott* [1913] AC 417, per Viscount Haldane, at 438, and per Earl Loreburn, at 446; *Re BBC* [2015] AC 588, per Lord Reed, at 604D and 614G; *In Re Press Association, ex parte Robert Jolleys* [2014] 1 Cr App R 15, at [16]; *Practice Guidance (Interim Non-Disclosure Orders)* [2012] 1 WLR 1003, at [13]).
18. The general public and members of the press/media who are regarded as members of the public for these purposes are entitled to attend all inquest hearings with very limited exceptions.

### **Access to material referred to or relied on in open court proceedings**

19. The default position following *Guardian News and Media v City of Westminster Magistrates’ Court* [2013] QB 618 is that access should be provided to any document placed before a judge and referred to in proceedings, particularly where access is sought for a proper journalistic purpose ([85]). In that case the Court of Appeal held that a newspaper publisher was entitled to see and have disclosure of court documents – opening notes, skeleton arguments, affidavits, witness statements and correspondence – which had been referred to in open court at an extradition hearing (at [10], [76]). The Court’s reasoning makes clear that the principle applies to all other judicial proceedings at [70].
20. The key principle was set out by Toulson LJ (as he then was), at [85]: In a case where documents have been placed before a judge and referred to in the course of proceedings, the default position should be that access should be permitted on the open justice principle; and where access is sought for a proper journalistic purpose, the case for allowing it will be particularly strong. However, there may be countervailing reasons. The court has to carry out a proportionality exercise which will be fact-specific. Central to the court's evaluation will be the purpose of the open justice principle, the potential value of the material in advancing that purpose and, conversely, any risk of harm which access to the documents may cause to the legitimate interests of others. It follows that where countervailing reasons exist supporting non-disclosure, the court should apply a fact-specific proportionality exercise considering the purpose of the open justice principle, the potential value of the material being sought in advancing that purpose, and any risk of harm which access to a document may cause to the legitimate interests of others. There may be stronger grounds for non-disclosure where the information relates to a child or vulnerable adult. Where there is a good reason for access, no harm to a third party and no great burden on the court, the material should be disclosed.
21. Non-disclosure of material read or referred to by the court amounts to a departure from the open justice principle. There is therefore a heavy onus on any party seeking to rebut the presumption in favour of disclosure.
22. By analogy in relation to criminal proceedings in *Re Guardian News and Media Ltd* [2016] EWCA Crim 58 the media appealed against the Crown Court Judge’s refusal to grant them access to CCTV footage which had been shown in open court during a criminal trial. The trial concerned the prosecution of a number of police officers arising from the restraint and death in custody of a mentally ill man. The CCTV footage was central to the prosecution case. Over two days, it had

been viewed in detail by the jury in open court. The judge ruled that the media could not have access to it until the trial was completed.

23. The judge indicated that the footage was of paramount importance to the case and that if it was published, it would be unrealistic to expect that the jury would be able to put out of their minds anything that they saw on television or social media, where the risk of distortion was very real. The Court of Appeal overturned the judge's decision. The default position was that access to the footage should be permitted. The request had been made for the purpose of contemporaneous reporting (an important facet of the open justice principle), the responsible media's role as "*public watchdog*" was explicitly recognised in the Criminal Practice Directions so that documents should generally be supplied in response to a request unless there was a good reason for not doing so, all of those considerations applied with particular force to a case of public interest involving a death in custody, and the jury had already seen the footage, meaning that there was no real risk of the jury being swayed by references to it in the press.
24. These principles have been reiterated and reinforced by the Supreme Court in the very recent case of *Cape International Holdings Ltd v Dring (and others)* [2019] SC 38

### **Disclosure to others**

25. The coroner may provide any document or a copy of any document, including a recording, 'to any person who in the opinion of the coroner is a proper person to have possession of it': regulation 27(2)).

In relation to a request by anyone other than an Interested Person for a recording or any other document, the discretion of the coroner on this issue (derived from the word 'may') must be exercised judicially. The Coroner should take into account:

- the person requesting the document
- the reason for the request
- the public interest
- the sensitivities of particular passages of evidence
- the need for editing or redaction (if any, bearing in mind this was a public hearing), and
- other relevant factors

26. Although coroners have a discretion on this point, members of the media (who can show identification where necessary) should normally be expected to be considered proper persons for these purposes.

Coroners are not obliged to produce transcripts of hearings.

### **Media requests for access to documents**

27. The media may ask for access to a document referred to in any inquest proceedings.

A Coroner need not treat a request as coming from the media unless the applicant is a bona fide journalist and the request is for a proper journalistic purpose. The request must specify precisely the document sought and explain why it is required. Where any of this is unclear, the coroner may ask for clarification. The important distinction between disclosure to Interested

Persons and disclosure to others is that media requests for access to documents will be dealt with under the discretionary power to disclose in regulation 27(2).

### **The Coroner's approach**

28. Access to documents referred to in court is governed in the first instance by the open justice principle. Open justice is a constitutional principle 'at the heart of our system of justice and vital to the rule of law': per Toulson LJ in *Guardian News and Media Ltd*.
29. Where the press requests access to material referred to in an inquest, in recognition of the role of the press as 'public watchdog' in a democratic society, there is a presumption in favour of providing access: *Observer and Guardian v UK* [1992] 14 EHRR 153. The purpose of disclosure is to enable the public to understand and scrutinise the justice system.
30. The media is not entitled to see documents not referred to in court. If a Coroner holds documents which have not been relied upon and adduced in evidence, these need not be disclosed. The media is also not entitled to have access to documents before a hearing, save when disclosure is necessary to enable the media itself to make representations (when entitled to be heard), for example in relation to a proposed restriction on reporting.
31. The presumption in favour of granting access does not mean that the media are 'entitled to disclosure', nor that it should take place 'by default'. Not all documents need be provided. The Coroner may refuse access where there are compelling reasons against it. The presumption of providing access under regulation 27(2) is therefore capable of rebuttal, but only for good and justifiable reason. In the *Guardian News* case it was described as 'some strong contrary argument' or 'countervailing reasons'.

### **The balancing exercise**

32. In making a decision whether to provide or refuse access, and in deciding whether disclosure is necessary or desirable for open justice purposes, the coroner is required to carry out a fact-specific proportionality exercise. It may sometimes be necessary, for example, for the Coroner to weigh in the balance on the facts of the specific case the competing rights of the media under Article 10 with the rights of a particular person (including Interested Persons, witnesses and any individual who could be affected by the disclosure) under Article 8 (right to respect for private and family life) where disclosure could give rise to a risk of harm or otherwise interfere with those rights.
33. Where possible the coroner should take into account (as a relevant factor) the views on disclosure of Interested Persons and others including those who supplied the document to the coroner and should ask if there is any objection to disclosure.

### **Reasons**

34. In granting or refusing an application for disclosure (particularly the latter), the Coroner should give brief reasons. When refusing access the ruling should refer to:
  - (1) The application
  - (2) The nature of the material requested
  - (3) Whether the application has 'journalistic purpose'
  - (4) The principle of open justice; Article 10 freedom of expression

- (5) The presumption in favour of disclosure
- (6) The countervailing reason which mitigate against disclosure which can include national security; public interest immunity; legal privilege; the avoidance of prejudice to current or future criminal proceedings arising out of the death; the Article 8 rights of witnesses or others that need to be protected from the glare of publicity. Even if CCTV/Video images were played in court there may still be good reason limit or refuse wider broadcasting.

### **Types of documents**

- 35. Access may be granted to material referred to in the course of the proceedings, including documents such as maps, photographs, CCTV, audio, and video tapes. This list of material also includes documents in a jury bundle and other documents which are referred to in open court. It includes applications and supporting evidence for witness anonymity. It includes skeleton arguments and written legal submissions which have been referred to in court where not provided by those who produced them for the court.

### **The applications**

- 36. Ms. Halle-Richards of Trinity Mirror Plc publishers of the Manchester Evening News and Mr. Buchanan on behalf of the BBC requested a copy of the CCTV and Body cam recordings played in open court to be supplied to them. Members of the media are not interested persons as defined in S.47 of the Coroners and Justice Act 2009 but have a right of audience either by themselves or their legal representatives to make submissions and representations about issues relating to the engagement and application of Article 10 and 8 of the ECHR.
- 37. Mr. Buchanan told me that the BBC are used to obtaining sensitive information and using it in a responsible way. He relied on the principle of open justice and that the material had been played in open court and referred to many times. Ms. Richards said that this was clearly vital evidence in the case and explained how the Coroner's conclusions were reached. It was in the public interest that footage shown in open court should be disclosed to the media. Significantly, Jack's family do not object. Neither of them could guarantee by whom or how it would be used.

### **Annex A of the Chief Coroner Guidance document No 4 the warning notice recommended to be sent out with disclosure of a sound recording. Outline of the submissions**

- 38. Mr. Willems QC and Mr. Simms as counsel to the inquest in written and oral submissions Pointed out but the inquest was held without a jury and in public in a partly remote format with the last two witnesses who gave evidence orally doing so by video link. Regulation 27 (2) the Coroners (Investigations) Regulations 2013 states that a request by anyone other than an interested person for a recording or disclosure of any document is at the discretion of the coroner. The Chief Coroner Guidance No 25 sets out a number of issues that the Coroner would have to consider in exercising their discretion to either refusal to grant access.. Annex A the Chief Coroner Guidance document No 4 provides a specimen warning notice that is recommended to be sent out to the recipients of a sound recording.
- 39. The Coroner's approach is dictated by the open justice principle enunciated in *R (Guardian News and media Limited) v Westminster Magistrates Court* (CA) (2013) QB 1. Where the press requests access to material referred to in an inquest in recognition of the role of the press as a "public watchdog" in a democratic society, there is a presumption in favour of providing



access to enable the public to understand and scrutinise the justice system. Even in the first inquest heard before a jury there was no application to delay reporting as in criminal proceedings. The Coroner can be confident the guidance document number 25 is still appropriate as it is based on established case law which was recently approved by the Supreme Court in *Dring v Cape intermediate Holdings Ltd* [2020] AC 629 at [34 to 48]

40. When considering these principles in application to this case the Coroner should have regard to the CCTV and Body cam footage showing that the incidents were carried out in public by individuals who are entrusted to carry out a public facing job. The Coroner has found that even they perceived themselves be involved in a security role. The unlawful acts and physical restraint were open to the public to see at all times. The individuals involved have all been publicly identified. It was submitted that overall, the coroner could come to the view that the public interest in disclosure outweighs the private interests involved.
41. Mr. Livesey on behalf of Mr. Rowlands, Mr. Fogarty, Mr. Gartside and Mr. Sellers argued that once disclosed the court had no control over how it was used. It could be uploaded to the internet and copied as well as further distributed. It could reflect badly on individuals.
42. Mr. Simkin on behalf of TFGM urged caution because the public interest also required that there should be no prejudice to any contemplated or future legal proceedings particularly of a criminal nature. The CPS would need to be in possession of all the facts and they may now take an alternative view and consider that criminal charges should be brought.
43. Ms. Judge on behalf of Palladium acknowledged that the transcript of the first hearing and the Body cam footage had already been disclosed to the media without objection. If the CCTV/Body cam was disclosed, it could possibly prejudice any future trial.
44. Mr. Murphy on behalf of MRDL indicated that it was almost inevitable that the material would be uploaded to the internet and could not be stopped once disclosed. I should have regard to the possibility of editing and that other individuals could be seen on the footage who had not had the opportunity to make representations. It was not clear what view the police had about this. If I did disclose it, I could make a direction against improper use to ensure that it could not be downloaded and edited.
45. Mr. Powell on behalf of the family had no objections to the disclosure and agreed with counsel to the inquest's submissions.

### **Analysis**

46. On the 26<sup>th</sup> February when I heard the application, I announced my decision but was only able to give brief summary reasons at that time but undertook to provide a full written ruling. It is important to recognise that the context in which this matter is being considered. I am conducting an inquest into a person's death and not a criminal trial. We are now in a world of 24/7 news, extensive and ever-growing social media.
47. There is no complete or exhaustive list of factors that are relevant to the exercise of my discretion which can be ticked off one by one. It is always case and fact specific. I am deciding whether to allow disclosure to the media of CCTV and Body cam recordings (with sound) that were viewed in open court. I found factually that Jack was unlawfully killed by use of unreasonable and excessive force in combination with other factors in a public place. The inquest was heard by me sitting as both the judge of fact and law. The application was not made

before or during the hearing but at its conclusion. Disclosure could not possibly prejudice the inquest proceedings.

48. I have considered Chief Coroner Guidance No 25 – Coroners and the Media and Guidance No 4 – Recordings.
49. There is a general principle in favour of open justice, and this equally applies to inquest proceedings. The right of the media/press to report on proceedings is an important feature of the Article 10 ECHR right to freedom of expression, to which the Courts were required to have specific regard pursuant to s. 12 of the Human Rights Act 1998. This does not mean automatically every document, photograph, plan, video/CCTV recording considered and admitted in evidence is disclosable. There may be, for example, highly sensitive and potentially distressing photographs/videos of the deceased person during the process of or after death when their body may be disrupted or being subject to a postmortem examination. Ordinarily those would not be disclosed without some very exceptional and persuasive reasons. Likewise, material that may promote, encourage or glorify terrorism.
50. S.10 of the Coroners and Justice 2009 Act defines the determinations and findings to be made which in accordance with Rule 34 of the Coroners Inquests Rules 2013 have to be recorded in writing on Form 2 – Record of Inquest. One of the short form conclusions that may be adopted amongst others is Unlawful Killing. That may not be framed in such a way as to appear to determine the criminal liability of a “named person” or civil liability. Consequently, inquests can come to a conclusion of unlawful killing (defined as Murder, Manslaughter or Corporate Manslaughter). The name of the individual(s) or organisation(s) involved may not be recorded as part of the determinations, findings and conclusion on the Record of Inquest even though the evidence and the findings of fact made by the Coroner or a jury, if there is one, can refer to specific individual(s) or organisations who have been named and identified in court. That requirement has been complied with.
51. It is necessary to decide whether the Article 8 right to respect for private and family life, home and correspondence is engaged at all in the sense that there is an arguable interference with an Article 8(1) right before considering whether this interference is justified pursuant to Article 8 (2). Is the interference according to law and necessary in a democratic society. Article 10 is also not without its limitations but the burden on those seeking to restrict disclosure is a heavy one. There is a presumption that disclosure should be made but that is rebuttable.
52. This was a complex inquest with a significant amount of evidence to be considered as well as issues of law and fact to be decided. During the whole proceedings no application was made for any witness to be granted anonymity, to give evidence behind a screen nor any other special measures.
53. I am satisfied that the applicants (Mr. Buchanan and Ms. Richards) are bona fide journalists and are seeking the material for proper journalistic purposes.
54. Unusually the evidence of witnesses who gave oral evidence at the first inquest or whose statements were admitted in written form were admitted at the new inquest without calling them again to give oral evidence. That approach was not objected to by any of the interested persons.
55. Mr. Rowlands, Mr. Fogarty, Mr. Gartside and Mr. Sellers all gave evidence in open court and could be seen and heard by members of the public and the media. None of the men have been

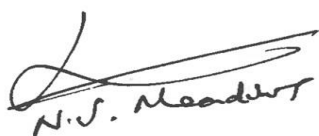
prosecuted for any criminal offence arising out of the circumstances. The CPS did not wish me to adjourn the inquest if I was considering whether or not a conclusion of unlawful killing could be found proved. I cannot and do not know what the CPS will do, if anything, in light of my findings but Jack died in 2016 and there has been no criminal prosecution to date. Whether that be for manslaughter or any other offence. As a result of *R (Maughan v HM Coroner for Oxfordshire* [2020] UKSC 46 the conclusion of unlawful killing is now judged by the civil and not criminal standard of proof. If the material is not released now, then when should it be. Simply waiting indefinitely is not the answer.

56. In any event the criminal courts regularly deal with even the most serious cases of a terrorist nature where there is relevant CCTV/Video/Phone Footage available publicly either before proceedings commence or arises thereafter at some point before or during trials as in the case referred to above of *Re Guardian News and Media Ltd* [2016] EWCA Crim 58. This is managed very frequently by Judges giving Directions to juries and is not uncommonly come across in the reporting of proceedings where a similar approach is taken.
57. The new inquest was conducted during the pandemic with the advocates and witnesses participating by video link except counsel to the inquest physically being in court but also using video link. Only very limited public and media access was possible to the courtroom itself. The CCTV and Body cam recordings were a crucial part of the evidence. This included sound recordings. I found as a fact that the transcript prepared of who is recorded talking and what was said on the Body cam recording was correct and accurate.
58. The media are entitled to request a copy the Record of Inquest and of my written detailed reasons for my findings and conclusion as well as matters of law that I ruled upon. The presumption is that they should be entitled to have access to that unless there are strong and persuasive reasons to the contrary. In my view none was advanced.
59. No objections were made by the interested persons to disclosure to the media of the transcript of the evidence from the first inquest and the transcript of the Body cam recording.
60. There are no issues of anonymity, public interest immunity, copyright, legal professional privilege involved. Nor does it relate to children. There is no statutory prohibition on disclosure. The material is relevant to the investigation and it does not cause the court an unreasonable administrative burden to provide. It is in the public interest that court proceedings can be reported fully and accurately. I have no power to editorially manage or control the material and any request, direction or order that I may seek to make is practically unenforceable. How on earth would I do it anyway. It was argued that since the court did not have control of what happened to the material then it should not be disclosed. If that were the case no such evidence would be disclosed at all. This ruling should not be interpreted as indicating that disclosure should be made irrespective of the content but is made specifically with regard to what the material shows in this particular case.
61. It may be inevitable that the material could be copied, screenshot, forwarded, WhatsApped; but that is the world we live in and is not a good reason in itself to prohibit disclosure.
62. Embarrassment, shame, regret or remorse for an individual's conduct or that it may reflect badly on them are not good and persuasive reasons for refusing disclosure. Some may argue that they are strong factors in support of disclosure.

63. Importantly Jack's family do not object but support disclosure of the material when clearly their Article 8 rights are engaged. The footage and sound recordings of the restraint and what Jack and others are heard to say is understandably very distressing for them.

**Decision**

64. In my view the factors supporting disclosure overwhelmingly outweigh any countervailing issues. Accordingly, the application for disclosure must succeed.



*N.S. Meadows*

**NIGEL MEADOWS  
HM SENIOR CORONER  
MANCHESTER CITY AREA**

**1<sup>st</sup> March 2021**