

INQUEST INTO THE DEATH OF MARK DUGGAN

AGENDA FOR PRE-INQUEST HEARING ON 28 JANUARY 2013 – 2 P.M.

1. **Confirmation that this inquest is to be conducted with a jury, and is intended to be compatible with the investigative obligation under Article 2 ECHR.**
This appears to be uncontroversial, but for the sake of good order I should like to make the position clear.
2. **Confirmation of the Interested Persons and their representation.**
A number of Interested Persons are on the record. I assume that they will remain involved and will retain their present representation. However, if conflicts of interest or any other reasons for having further representation are likely to emerge I wish to have them resolved at the earliest opportunity.
3. **The approach to sensitive intelligence.**
I have been given only those materials which have been served on the Interested Persons. I understand that there may be sensitive intelligence material to Mr Duggan's death. If so, my present intention is to consider it, with assistance from Counsel and Solicitor to the Inquest, with a view to determining whether it is relevant and, in that event, to put it into a form which can be adduced before a jury in public.
4. **Provision for further disclosure.**
The materials which have been served thus far were those which were made available by the IPCC. I propose to formulate some very broad issues arising out of them, and to write to the IPCC, MPS and any other body appearing to hold documents, inviting them to disclose any further materials in their possession and control which could realistically be considered relevant to those issues.
5. **Witness statements.**
Once I am satisfied that I have received all relevant documents I will consider the existing witness statements, again with the assistance of Counsel and Solicitor to the Inquest. If I believe that further or supplemental statements should be taken I will make arrangements for securing them.
6. **Expert witnesses.**
At this stage I do not know what expert evidence is likely to be required, and would welcome submissions on the adequacy of the reports currently available and suggestions for further work.

7. Setting a date for agreeing issues.

Once I am satisfied that the documents, witness statements and expert reports are provided for, Counsel to the Inquest will circulate a draft list of issues, and I will set a date for those issues to be agreed, failing which I will rule on them.

8. Attorney General's undertaking.

It is possible to ask the Attorney to give an undertaking to witnesses. If given, it would ensure that no document they produce, or evidence they give, to this Inquest, would be used against them in connection with any criminal proceedings in the future. Such an undertaking would obviate the risk of any question going unanswered for fear of self-incrimination.

Conversely, it would have the capacity to inhibit any prosecution which would otherwise be based on admissions made during the course of the Inquest. I invite submissions about whether such an undertaking should be sought.

9. Date for draft list of witnesses.

I should like to set this now, bearing in mind what I have said about further documents and statements.

10. Dates for applications for anonymity/PII.

I do not know whether issues will arise about police officers, and perhaps intelligence officers, giving evidence under their own names and unscreened. I also do not know whether public interest immunity will be sought for any documents given to, or to be given to, the Inquest. If so, I wish to make provision for the applications which are presently envisaged.

I also need to ensure that, if applications arise in future in relation to further witnesses or documents, a period is set for making the application in relation to service of documents or service of witness statements.

11. Protocol for those applications.

I have circulated draft protocols for the treatment of anonymity and PII applications to the interested parties, which I propose to adopt, subject to any argument addressed to me on 28 January.

12. Making provision for setting a date for the hearing.

I very much appreciate the need to hold an investigation into Mr Duggan's death as soon as is practicable. However, I am also conscious of the need for the investigation to be thorough. Although it would be desirable to set a hearing date now, with a view to ensuring that all the outstanding steps are taken in time for it to be met, I am anxious not to set an unrealistic date. Until I am able to form a view about whether the intelligence

materials could and should be put into the public domain I cannot assess how long it may take to redact them.

The better approach may be to have a further PIH, say in April 2013, for the purpose of setting a hearing date. By then the IPCC should have reported, the documents and witness statements will have been assessed, and I should be able to gauge what, if any, further time will be needed to deal with intelligence materials. If a venue for the inquest is known at that stage, that PIH could be held there. Alternatively, it could be held at Winchester.

I realise that the issue of when this inquest can be held is a very difficult one, and fully understand the frustration and distress which the delay so far must have caused Mr Duggan's family and loved ones. I shall be particularly grateful for submissions on how I approach the problem of holding an effective inquest with all possible speed.

If any interested person suggests that the hearing date can be set now, it would be helpful for them to say what date could be realistically be met, together with a time estimate.

13. Venue

If the Inquest is to sit in the Coronial area of Mr Duggan's death it may possible for it to take place in the Crown Court at Wood Green or at Harrow. If it is to take place out of the area it may be possible to hold it at the Royal Courts of Justice.

14. Hearing arrangements

I presently would prefer to conduct the Inquest unrobed.

I should like to have the materials available for the jury, witnesses and members of the public on screen and to upload them on the Inquest website.

I believe that daily transcripts would be desirable, but that real-time viewing of the transcript is unnecessary. The public interest in this inquest is likely to be considerable, and if any restriction on press coverage other than will be dealt with by the anonymity and PII processes, it should be identified now.

I welcome submissions about these matters and any others which can be resolved for the efficient and fair hearing of the Inquest.

H.H.J.Cutler
Inquest into the death of Mark Duggan
22 January 2012