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Michael J Perry

DPA

9 September 2019

Dear Madam,

**OBSERVATIONS ON SUBMISSIONS BY COUNSEL TO THE INQUIRY
2 SEPTEMBER 2019**

I refer to your email/letter of 2 September 2019 on the above-mentioned subject.

Background to the Investigation

At Paragraph 9. Counsel summarises how the Independent Police Complaints Commission, now the IOPC, became involved. It is said that the IPCC began an investigation into aspects of Leicestershire Police's handling of the allegations against Lord Janner in October 2015 and that his was known as Operation Nori.

What is not made clear in Counsel's summary is that in early in 2013 the Leicestershire Police initiated its own review into previous police investigations of Lord Janner under the banner 'Operation Enamel'. On 19 September 2014 the police referred Operation Enamel to the IPCC for investigation but the IPCC decided that this was not a matter for them – the reason for that decision has not yet been made public.

On 23 April 2015, seven months later, the IPCC reviewed its earlier decision and decided that it would take on the investigation into the Leicestershire Police handling of the 1991, 2002 and 2007 police inquiries into the conduct of Lord Janner. On 30 October 2015 IPCC Commissioner Derrick Campbell issued terms of reference for that investigation which was still called Operation Enamel but at a later date was to be renamed Operation Nori.

It has not yet been made clear what caused the IPCC to review their original decision to reject the Leicestershire Police referral. Logic suggests that some new and fundamental information came to light to bring about the change of heart. If the reason for the reversed decision is already known by Counsel to the Inquiry and has been judged irrelevant to the aims of the Inquiry I am content not to pursue the matter further at this time. Perhaps you are able to confirm that the IOPC report to be circulated to core participants in due course adequately covers this point?

Impact of Recent Developments on the future of the Investigation

At Paragraph 34 Counsel to the Inquiry says,

“It is our firm and settled view that the decision of the IOPC to refer an individual to the CPS means that the February 2020 substantive hearings cannot go ahead.”

They go on to list five points in support of that contention. I would argue that further delay to the Inquiry’s work is both undesirable and unnecessary.

The submission of Counsel for the IOPC dated 30 August 2019 does not make any application for further delay to the Inquiry’s work, much less does it ask for the substantive hearings planned for February 2020 to be vacated.

It had originally been the Inquiry's intention to start hearings of the Leicestershire strand in September 2016 and to conclude them within six months of commencement. I attended a preliminary hearing held on 26 July 2016 at which the Chair agreed to postpone the planned full hearings until 7 March 2017 to allow the IPCC and Leicestershire Police to complete their ongoing investigations.

The minutes of that preliminary hearing record Mr Emmerson (then Counsel to the Inquiry) saying,

“Can I just take this moment to emphasise that we are not, as the timing will make clear, proposing that the hearings are postponed until the conclusion of Leicestershire Police and any disciplinary or criminal action that may emerge from the IPCC's investigations. We don't consider that to be necessary, and both Leicestershire Police and the IPCC agree that, managed carefully, there should be no objection to the Inquiry hearing evidence before the conclusion of those investigations and any criminal prosecutions that may follow. The purpose of the postponement, then, is to allow for a coordinated approach to the taking of evidence from witnesses, with a view to protecting welfare and mitigating the risk of prejudice to potential criminal trials.”

If an airing in an Inquiry held under the Public Inquiries Act were to be deemed fatal to criminal proceedings then the criminal prosecutions following the Hillsborough Disaster would have failed. They didn't, even though the names of people subsequently charged had been in the public domain through two Public Inquiries, two inquests, numerous TV programmes and publications.

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I do not subscribe to Counsel's passive view expressed at Paragraph 37 nor do I support the benevolent stance set out in the Note prepared by the Solicitor to the Inquiry. I think that it is not unreasonable to expect the Crown Prosecution Service to make a charging decision within one month. Charging decisions on murder, terrorism and other grave crimes have to be made within hours and days. The idea of accepting without critical comment that this particular decision be put off for weeks and months is unconscionable. At some point someone is going to have to be publicly accountable for the way your Inquiry has been delayed by the prevarication of others. I would have expected the CPS to want to move swiftly to a decision.

Clearly the IICSA cannot compel the CPS to make a decision by a certain date but IICSA is not prevented at law from continuing its work regardless of whether or not unrelated criminal proceedings may commence. It seems to me that IICSA should tell the CPS that a preliminary hearing will be taking place on 24 September 2019 and that a full public hearing will commence on 3 February 2020 regardless of any decision they may make.

Yours faithfully,

Michael Perry

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