



6<sup>th</sup> May 2014

Mr David Ford MLA  
Minister for Justice  
Department of Justice  
Block B  
Castle Buildings  
Stormont Estate  
Belfast  
BT4 3SG

Dear Minister

**Re: Stalker/Sampson Related Inquests**

Thank you for your letter of 8<sup>th</sup> January. The Senior Coroner is grateful to you for taking the time to consider his stated observations and requests. You correctly detected a not inconsiderable amount of frustration on the part of the Senior Coroner. He has been endeavouring to hold these Inquests for many years. It should be viewed as an enormous source of embarrassment to the State that these Inquests have not been held. He instructs me that he has done his best to cajole and persuade those who, at one level, hold the key to the holding of the Inquests - PSNI and Court Service - to provide the necessary resources in terms of funding, personnel and practical arrangements. Ultimately, the question of their (and his) resourcing lies with you, at least in as far as National Security is not being asserted. In that regard, resourcing clearly becomes a matter for central government and the Coroner would wish to be assured that you have pursued this with the Secretary of State and/or other individuals with particular responsibility in respect of the assurance of Article 2 compliance. The Senior Coroner, himself, intends to pursue this matter directly with central government as a means of assuring that sufficient resourcing will be provided to allow him to fulfil his obligation to hold Article 2 compliant Inquests in these matters.

The Senior Coroner is of the view that the Inquests are being funded on a drip feed basis and that there is no demonstrable commitment to ensure that these Inquests are properly resourced and otherwise facilitated so that they can take

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place timeously. In the meantime, the families of the deceased and the witnesses age, and many have already died without these Inquests having been heard. The delay for the families of the deceased and for many of the witnesses involved must be nothing short of intolerable. Neither is the public interest, more broadly, served by the state of affairs which has been allowed to pertain.

The Senior Coroner has also asked me to make the following points arising from your most recent correspondence:

(a) Your correspondence stated that the PSNI has carried out a review of the resourcing structure for the Legacy Support Unit and has identified additional resources. It remains the Senior Coroner's view, however, that the additional resourcing indicated to date is inadequate for the task in hand. The disclosure exercise, in respect of the currently presented PSNI Stalker Sampson archive, even with the additional resources in place, will apparently still not be complete for a number of months and, at the current rate of progress, the final timescale, judging from past experience, remains uncertain. In terms of trying to book Courthouses, to ensure witness availability and to address all of the attendant issues that fall to be considered by this office, this is a wholly unsatisfactory position.

(b) The current arrangements that exist for the sharing of information between Senior and Junior Counsel for the Senior Coroner is wholly inadequate. The position that we have at present is that Junior Counsel is working on a full time basis and this is essential work which shall continue. At a point in time Senior Counsel will be required to commit full-time to the preparation and presentation of the Inquests. This point will only be reached when we are sufficiently far on with the disclosure issues and can meaningfully identify a point in time when the Inquests shall take place. In the meantime, Senior Counsel has continued with his other work and advises the Senior Coroner and his team strategically as well as conducting reading as time allows. However, it should not be his role to duplicate the work of Junior Counsel, particularly in relation to the reading of disclosure. He needs, however, to be briefed by Junior Counsel as to the unredacted content of the disclosure and to advise both as to the content of material and strategically. It is this point of communication that is impossible on a practical basis as the permitted level of contact between them, given the restrictions imposed by classification of this material as Top Secret, does not take account at all of the method by which Junior and Senior Counsel must work in order to do their work in an efficient and cost effective manner. In the context of the efficient use of budgetary resources, the present attitude of the PSNI to the classification of the Stalker/Sampson material is only serving to drive up costs, not reduce

them. This problem has been longstanding, and has been raised with PSNI, who advise they can declassify no faster than the disclosure exercise allows. The Senior Coroner will bring this issue up again with the Head of the LIU, as you suggest, but you do need to be aware of the problem.

(c) The Senior Coroner remains deeply frustrated by the absence of an appointed Investigator. It is essential that this role is filled as early as possible. In the context of Article 2 compliant Inquests, there is no scope for any argument over budgetary constraints. The Senior Coroner has been actively seeking the appointment of an Investigator for going on three years and, while he appreciates the need for any appointment to follow a transparent and fair process, the reality is that he needs to ensure that all the evidence has been reviewed in light of modern day policing standards and this cannot happen until the Investigator is appointed. This Office has indicated the need for such an appointment for several years now and resources should have been in place to allow me to move directly to this appointment at the point it was required. Instead, the process currently embarked upon is highly bureaucratic and overly attenuated, with the practical effect being that we are still some considerable way from a substantive appointment – with a lack of clarity still hanging over the appropriate method to be deployed for the appointment process itself. This situation is clearly untenable, and meanwhile, valuable time is being wasted and evidence likely deteriorating further.

(d) You have raised budgetary issues and value for money issues and it is appreciated that money is not plentiful currently. It has to be stressed, however, that the obligation of the Senior Coroner's office is to satisfy an unconditional obligation imposed on the United Kingdom to carry out an Article 2 Investigation into the circumstances of these deaths. It is not a task that can be avoided because there is no or insufficient money. Nor can judicial directions in terms of ensuring compliance with this obligation be deemed subject to a business case to the point of becoming lost in a mess of bureaucratic wrangling. Money has to be prioritised to the completion of these Inquests. Otherwise, the further sanction of the European Court of Human Rights awaits. The Senior Coroner is determined to ensure that if an enquiry into the conduct of those responsible for the discharge of the State's obligation occurs, there can be no doubt that he has set out continuously his dissatisfaction over the resourcing and other issues which have prevented such Inquests occurring before now.

The Senior Coroner has asked that you take these observations and expressed deep concerns into account in ensuring that your Department provides the

Commission to enable these important Inquests to take place timeously, and also that you press central government to address relevant issues which come within their purview in these and other regards.

He awaits your further assurances such as to indicate that real progress is being facilitated.

Yours faithfully

CC:

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