PRESIDING CORONER FOR NORTHERN IRELAND

STATEMENT IN RELATION TO LEGACY INQUESTS

20TH NOVEMBER 2019

Good morning.

Thank you for coming today. I am grateful for the attendance of families, some of whom will have travelled quite a distance. I recognise that this will be a difficult day for many people and I want to thank the legal representatives for assisting with this process.

As the Presiding Coroner for Northern Ireland, it falls to me to decide the sequence in which legacy inquests will be heard during the period of the five year plan. The purpose of today is to announce those inquests which I hope will be heard during Year 1 of the Lord Chief Justice's five year plan for legacy inquests. I will also provide information regarding how the remaining inquests will be brought to the point where they are ready for listing.

These are very important decisions. In taking them, I have listened to all views expressed to me. There are no easy options when it comes to determining the sequencing of these inquests and there is no single correct way to approach the sequencing task. I assure you I have given the matter very anxious consideration to ensure that the approach I have taken is the best in this difficult context.

Before I proceed, I would like to emphasise that, within the coronial system, no legacy inquest is more important or of greater priority than any other. I am conscious that each inquest concerns somebody's loved one and that families have to live every day with their loss no matter when or how it occurred.

I recognise that inevitably some people will be disappointed with what I am going to say today. I want to offer you the reassurance that I have not undertaken this task lightly. I give you the commitment that my judicial colleagues and I will do

everything in our power to complete legacy inquests within the five year timeframe. This is not something we can achieve in isolation. We will be relying on the cooperation of everyone involved – families, legal representatives and government bodies. I do not underestimate the enormity of the task, however, I have been heartened by the positive and forward-looking approach taken to the recent preliminary hearings. I strongly urge that you all strive to maintain this spirit of constructive and collaborative working as we move forward.

In my statement on 7th June, I said that I would engage with families during the process of determining the sequencing of inquests for hearing within the five year plan. I also said that I would take all views into account when reaching sequencing decisions. In order to do this, I held individual preliminary hearings into each pending legacy inquest over a three week period during September and October of this year. The total number of preliminary hearings was 41, with the 4 inquests known collectively as the 'Stalker & Sampson' inquests being listed for 1 preliminary hearing.

The purpose of the preliminary hearings was to obtain information about factors which might impact on the state of readiness of each pending legacy inquest. This included information regarding inquest disclosure, ongoing civil and judicial review proceedings, on-going criminal investigations and Police Ombudsman's investigations. I heard about particular issues such as elderly or ill relatives and witnesses or potential issues in tracing military witnesses. I heard views regarding how ongoing or pending Police Ombudsman's investigations or ongoing civil litigation should, or should not, impact on sequencing and on where sequencing of particular inquests should sit within the five year plan. In some cases, where sufficient information was not available at the preliminary hearing, I directed that it be provided to me within a short timeframe.

Submissions were made in a number of preliminary hearings that effective case management would assist in getting inquests on for hearing. Additionally, I heard

submissions which acknowledged that particular inquests were not ready for listing but that neither should they be put into 'cold storage'.

I welcome an openness to different approaches because I am acutely aware that many of the pending inquests have been awaited for many years, exacerbating the distress of families and the anxieties of all those affected. Wherever possible, I wish to avoid that distress being compounded by the inquest process and so I am receptive to exploring any options which might make that less difficult. I do so confident that the experienced lawyers involved in the inquests will assist the process.

Also on 7th June, I stated that I would consider the merits of a thematic approach as part of the process of sequencing the pending legacy inquests. This arose due to concerns expressed by the international human rights community that the wider picture might be missed if we focused solely on a series of individual inquests.

The potential benefits of linking particular deaths into one inquest or group of inquests are well recognised. A number of the pending inquests, such as the inquests known as the Stalker & Sampson series, have already been linked. Additionally, there are a number of inquests which, as a result of information which emerged during Lord Justice Weir's review in 2016, I consider it appropriate to now treat as linked.

Against this background, I have considered the merits of linking pending legacy inquests where there appear to be common themes. However, I am conscious that linking cases might not be right for all inquests and so I intend to apply a flexible approach. That is because it was submitted during some preliminary hearings that individual deaths which, on the face of it, might appear to fit into a themed series should be treated as discrete incidents for inquest purposes. I appreciate that there are may be a number of reasons why this view might be taken, including because of concerns that inclusion in a themed series might lead to an inquest being held later than would otherwise be the case.

More generally, I recognise that the number of deaths in which there is a pending legacy inquest is a very small proportion of the overall number of Troubles-related deaths. Additionally, a Coroner has no control over which deaths are reported or referred for coronial investigation. Once an inquest is within the Coroner's jurisdiction, the Coroner is under an obligation to deal with it in accordance with the relevant legal principles. It follows that, while themes or linkages between inquests may be identified, it is possible that the incidents with which the inquests are concerned may not include all deaths or incidents relevant to the theme. I am mindful therefore that it may not be possible for the inquest process to provide the full context or to properly reflect the wider picture.

Against that background of caution, I do consider that there is merit in provisionally grouping some inquests for case management purposes. This would allow for focused review and structured consideration of potential cross-referencing of information. Accordingly, I propose that there should be a provisional group comprising inquests into deaths in the Mid-Ulster area between 1990 and 2000 which were claimed by loyalist paramilitaries. I propose also that there should be a provisional grouping of inquests into deaths where it appears undercover soldiers may have been in situ prior to the fatal incident occurring.

This provisional grouping approach will be kept under review and revisited if necessary. I emphasise that groupings are for case management purposes. Inclusion within a grouping is not intended to be a factor in determining appropriate sequencing.

I turn now to those inquests which are to be listed in Year 1, that is between April 2020 and April 2021. Having given the matter much careful consideration, I have come to the view that, for practical reasons, state of readiness has to be the main factor in determining which inquests can be listed in the first year. With that in mind, I have identified the following inquests as suitable for listing during Year 1:

Year 1, Quarter 1:

1. Thomas Friel
2. Stephen Geddis
3. Neil McConville

Year 1, Quarter 2:

4. Patrick McElhone
5. Sean Brown

Year 1, Quarter 3:

6. Gareth Paul O'Connor
7. Leo Norney

Year 1, Quarter 4:

8. Daniel Doherty & William Fleming
9. Thomas Mills
10. Patrick Crawford.

These inquests will now be case managed to hearing. Case Management Protocol disclosure request letters in respect of the first five inquests will issue shortly and I will hold case management hearings in those cases in January 2020. Disclosure request letters will issue in the second five cases in early 2020.

I emphasise that the approach that I have taken to listing in Year 1 will not necessarily determine how inquests will be sequenced in later years. As other issues arise, they will be considered and taken into account throughout the five year plan.

I turn now to the remaining inquests.

Inquests not listed for hearing in Year 1 fall into two categories. The first category comprises inquests which require active judicial case management to be brought to

the point where they are ready to be sequenced for hearing. The second category comprises inquests where there are other on-going investigations and the next of kin wish to await the outcome before the inquest proceeds.

Inquests falling within the first category will be subject to twice yearly case management reviews at the discretion of the Presiding Coroner. The aim of the reviews will be to ensure that there is informed forward planning and preparation throughout the five year plan. This means that inquests not listed in Year 1 will be looked at and timetabled for the following years on an on-going basis. The first of these reviews will take place in April 2020 at which point I hope that we will be in a position to consider provisional Year 2 listings. That exercise will continue each year thereafter.

There are some particularly complex inquests which would benefit from on-going active judicial case management. I intend to assign a dedicated member of the judiciary to such cases.

Inquests falling within the second category will be subject to periodic administrative review at the discretion of the Presiding Coroner. While I understand that other investigations are on-going at present, there may come a time when these inquests simply have to be heard. These decisions will be taken in liaison with all interested persons, including the next of kin. This process of review will ensure that, if and when these cases require active case management to be ready for listing, this occurs in a timely manner. The first administrative reviews will take place in April 2020.

In presenting this plan to you all, I have been greatly assisted by all submissions made. I have had a difficult decision to make. I am confident that the approach I have taken is the best in the circumstances. Once again, I emphasise that there is no hierarchy of inquests and that listing is not a task which I have undertaken lightly. I assure you again that my judicial colleagues and I, supported by the staff in the Legacy Inquest Unit, will do everything we can to ensure that all pending legacy

inquests are completed within the five year timeframe. I ask for your patience and forbearance during this process.

I will now adjourn until a case management review to be fixed in January. There are some legal issues on which I may give a decision at a convenient time.

Thank you for coming.

The Hon. Mrs Justice Keegan

20th November 2019

ANNEX

INQUESTS SUBJECT TO ACTIVE JUDICIAL CASE MANAGEMENT

Mid Ulster Inquests:

1. Samuel Marshall
2. Kevin McKearney & John McKearney
3. Charles Fox & Teresa Fox
4. Seamus Dillon
5. Fergal McCusker
6. Richard Jameson[1]

Potential Military Operations Inquests:

7. Patrick Duffy
8. Francis Bradley
9. Loughgall inquest – Hughes, Arthurs, Donnelly, Gormley, Kelly, Kelly, Lynach, McKearney & O'Callaghan
10. Alexander Patterson
11. Coagh incident – Ryan, Doris & McNally
12. Clonoe incident – Vincent, O'Farrell, Clancy & O'Donnell

Other inquests

13 & 14. 2 x inquests of Slane & McDaid

15 - 18. Stalker & Sampson Inquests x 4: Quinn, McCloy & Hamilton; McKerr, Toman & Burns; Michael Tighe; and Carroll & Grew

19. Springhill Inquest: Dougal, Gargan, Fr. Fitzpatrick, Butler & McCaffrey

[1] This inquest is in the active case management category due to its inclusion in the Mid Ulster group but may fall to be dealt with by administrative review.

20. McDonald & McGleenan

21. Gerard Lawlor

22. Joseph Campbell

23. Raymond McCord

24. Liam Thompson

25. Kevin McAlorum

26. John Moran

27. Desmond Healey

28. Hugh Coney

INQUESTS SUBJECT TO ADMINISTRATIVE REVIEW

1. 3 x inquests of Craig McCausland; Mahood & Coulter; and Robert Moffett

2. 2 x inquests of Daniel Rooney & Patrick McVeigh

3. 1 x inquest of Gerard Casey.