

Justice for the 96 at the Hillsborough inquest

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Corporate Crime analysis: Mark George QC, head of chambers at Garden Court North Chambers in Manchester, who acted for 22 families in the inquest, says the Hillsborough inquests underline just how important the European Convention on Human Rights and the Human Rights Act 1998 really are.

Original news

Hillsborough inquest returns unlawful killing verdict, LNB News 26/04/2016 88

All 96 victims of the Hillsborough disaster were killed unlawfully, the jury of the inquest into the Hillsborough disaster has concluded. Match commander Chief Superintendent David Duckenfield was 'responsible for manslaughter by gross negligence' due to a breach of his duty of care. Further, police errors caused a dangerous situation at the turnstiles.

Briefly, what is the background to this inquest, and what were the key issues the jury had to consider?

On 15 April 1989 at an FA Cup semi-final at Sheffield Wednesday's Hillsborough stadium, 96 Liverpool fans were crushed to death in fenced pens behind the goal at the Leppings Lane end. The crush occurred because police failed to close the tunnel to the central pens when they opened an exit gate to relieve the pressure of fans that had built up outside the ground. The jury had 14 questions to answer in a questionnaire asking them about the responsibility of the South Yorkshire Police (SYP) for the policing of the crowd outside and inside the stadium and the decision to open an exit gate. Other questions asked about the responsibility of the club for the safety of the ground, the licensing authorities including Sheffield City Council regarding the safe capacity in the ground, the conduct of the club before and on the day of the disaster, the conduct of the club's then consultant engineers regarding the safety of the ground and the response by both SYP and the South Yorkshire Metropolitan Ambulance Service (SYMAS) to the disaster. Probably the most significant question asked the jury to consider whether the 96 had been unlawfully killed. This required them to be sure that the conduct and failures of the match commander David Duckenfield were so serious that they could be described as 'gross negligence' and therefore criminal. Finally, and most controversially, the jury had to consider whether any behaviour on the part of the supporters contributed to the dangerous situation at the turnstiles.

What are the central findings of the inquest?

The jury's conclusions found all the key authorities involved responsible for various aspects of the disaster. The police were found comprehensively responsible for the disaster. Key findings included:

- police planning for the match was inadequate—the operational order failed to include specific instructions for managing the crowds outside the ground, the filling and monitoring of the pens
- the police should have used cordons to filter fans towards the ground and failed to control access to the turnstiles by closing the outer perimeter gates until too late that afternoon and the police had no contingency plans to deal with large number of fans arriving close to kick-off, a phenomenon that was well known at the time
- the police should have closed the tunnel to the central pens before gate C was opened at 14:52, since those pens were already full—they also found that the police should by 14:30 have requested information from the club as to the number of supporters still to enter the ground before kick-off
- commanding officers failed to consider where fans entering through the exit gate would go once inside and failed to notify officers in that area prior to opening gate C
- the jury found by a majority of 7 to 2 that the 96 were unlawfully killed
- the jury unanimously found the supporters bore no responsibility for the dangerous build-up at the turnstiles
- the design and layout of crush barriers on the terraces exacerbated the 'waterfall effect' which caused dangerous surges to develop—the club's engineers should have recognised that the removal of several

barriers increased the risk to fans in the pens

- there should have been dedicated turnstiles leading to individual pens
- there were too few turnstiles to permit the safe entry of a capacity crowd
- signage inside the ground was inadequate to help fans find their way into the terraces other than through the tunnel
- the safe capacity of the Leppings Lane terrace had never been correctly calculated by the club's consultant engineers or amended after further developments and the safety certificate had not been updated
- club officials on the day were aware of the huge number still outside the ground at 14:40 and should have requested a delay to kick-off
- both SYP and SYMAS failed to recognise the disaster as it unfolded and delayed calling a major incident—the emergency services failed to liaise or act in a co-ordinated manner. There was no adequate command and control of the situation

What is the meaning of the findings and what are the implications of the conclusion for the families and for the organisations implicated in the event?

For the families, the jury's conclusions represent vindication of what they have been saying ever since the disaster happened. It vindicates their long struggle over more than a quarter of a century for justice for those who died and were injured. The finding that the 96 were unlawfully killed means the match commander, SYP Chief Superintendent David Duckenfield, has finally been held accountable for the disaster despite his lies at the time. The unanimous finding by the jury that the fans had no responsibility for the disaster should serve to finally kill off the disgusting slurs that have been directed at those who survived, often seriously traumatised themselves, which suggested they had killed their own friends and fellow family members.

For some of the authorities, there will or should be serious consequences. At the time of writing, David Crompton, the current SYP Chief Constable, has been suspended and we are told he will not work again in that capacity. In any event, the families would have called for him to be sacked—particularly because of his behaviour in the inquests themselves. The families have also called for the chief executive of the Yorkshire Ambulance Service (the successor organisation to SYMAS) to resign as a consequence of the way he evidently instructed his legal team to conduct their case at the inquests.

How does this case fit in with developments in human rights law?

These inquests underline just how important the European Convention on Human Rights (ECHR) and the Human Rights Act 1998 (HRA 1998) really are. It was HRA 1998 that incorporated the ECHR into English law. The right to life in ECHR, art 2 requires the state to ensure a sufficient and effective inquiry into the deaths of those who died in circumstances such as Hillsborough. Put simply, the new inquests with a jury would not have happened without HRA 1998 and the ECHR. It is therefore puzzling, not to say disappointing, that Home Secretary Theresa May repeated her opinion that the UK should withdraw from the ECHR the very day before she hailed the outcome of the inquests.

What happens next?

The Director of Public Prosecutions will now have to consider whether criminal charges should now follow. These include:

- whether David Duckenfield should now face manslaughter charges
- whether other officers should face charges of perverting the course of justice as a result of the attempt to cover up the role of the police, and
- possible misconduct in public office charges

Mark George QC is a highly experienced defence trial advocate and is regularly instructed in cases of murder, manslaughter, rape and other serious sexual offences. Mark undertakes inquests on behalf of bereaved families often following deaths in police or prison custody. He also represents interested parties at high profile inquests following controversial deaths and where substantial cross-examination of police officers is required.

Mark George QC and acted for 22 families in the Hillsborough inquests alongside Pete Weatherby QC, Kate Stone and Andy Fitzpatrick also of Garden Court North and Henrietta Hill QC of Doughty Street. They were instructed by Broudie Jackson Canter (for 20 families) along with EAD Solicitors and Butcher & Barlow LLP who represented one family each.

Interviewed by Kate Beaumont.

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