

**IN THE MATTER OF THE PUBLIC INQUIRY**  
**INTO THE DEATH OF JERMAINE BAKER**

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**RULING ON AN APPLICATION FOR A RESTRICTION ORDER**  
**IN RESPECT OF AERIAL SURVEILLANCE**

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1. This is my ruling in respect of an application for a Restriction Order made on behalf of the Commissioner of Police of the Metropolis (“MPS”) by OPEN application dated 1 July 2021. I have separately received a CLOSED written version of the application and a CLOSED witness statement in support of the application.
2. I am told that the material over which I am asked to make a Restriction Order (“RO”) is very sensitive indeed. In fact, I am told that the sensitivity is of such a degree that I and the Inquiry team have not been given a hard copy of the CLOSED evidence in support of the application. Instead, the Metropolitan Police Service holds a copy of the signed witness statement electronically on a laptop computer. I have had the opportunity to read that statement on that computer. It is the statement of Ian Garland, a member of police staff and is dated 7 July 2021, albeit an unsigned version has been available to the Inquiry since the time that the OPEN application was made.
3. The OPEN application is very brief. It makes clear that the RO is sought in “in relation to aerial surveillance” and that in OPEN evidence the MPS will confirm that during Operation Ankaa that (1) there was no aerial surveillance and (2) aerial surveillance was considered but was not suitable for deployment in the circumstances.
4. The OPEN application has been disclosed to Core Participants (“CPs”). No substantive submissions were made in response. The CLOSED documents have not been seen by CPs.
5. I make the RO sought by the MPS. I do so for these reasons.
  - a. The CLOSED witness statement is very persuasive. The witness writes in detail about the aerial surveillance capability of the MPS as was available in December

2015. Furthermore, the witness addresses by reference to other named operations the way in which the capability has been used and the importance of the capability to law enforcement agencies. I am entirely satisfied that the details of this capability are highly sensitive.

- b. One of the few facts which is known to CPs in OPEN is that aerial surveillance was not used on the day. Moreover, CPs are aware that the MPS believes that deployment of aerial surveillance “was not suitable” for that operation on 11 December 2015. The MPS does not specify in OPEN why aerial surveillance “was not suitable” but I am aware of the full explanation for this in CLOSED evidence.
  - i. Materiality and relevance are linked but different concepts. Although the information is relevant to the issues in the Inquiry’s Terms of Reference, and the information was provided in response to a request under Rule 9 of the Inquiry Rules 2006, it does not follow *sine qua non* that the evidence is material such that it should be adduced in evidence.
  - ii. On the basis of this CLOSED explanation, I do not consider it is an issue which needs to be explored in evidence (either in OPEN or in CLOSED). Therefore, the relevance of the information which will be withheld if I grant the RO is relatively slim. Having considered all the material to which I have referred, I am fully satisfied that my inquiry will not be materially affected by not exploring this issue in evidence.

**7 July 2021**

**HH Clement Goldstone QC**

**Chairman, Jermaine Baker Inquiry**