

PUBLIC INQUIRY INTO THE DEATH OF JERMAINE BAKER

Supplementary Closing Submissions on behalf of the Independent Office for Police Conduct

Introduction

1. These submissions are made following consideration of the Closing Submissions of the other Core Participants. They are not intended to advance a case but to assist the Inquiry and should be read together with its Closing Submissions dated 26 August 2021.

The relevance of IOPC Case to Answer determinations

2. W80's submissions at paragraphs at 1(viii) and 15(vi)-(iv) (based on the evidence of the Inquiry's experts) are framed as a criticism of the IOPC's analysis. That analysis concerned whether he has a *case to answer* in police misconduct proceedings.
3. At paragraph 23 of the submissions on behalf of Mr Baker's family, the Chairman is invited to *'scrutinise whether the force used by W80 was legitimate and in accordance with the standards of professional behaviour not merely whether W80's actions were in contravention of the criminal law.'*
4. The IOPC, for the same reasons repeats its closing submission that:

The Chairman's short form conclusion, whether Mr Baker's killing was lawful or not, and his findings about any failures, should be made without reference to the IOPC's case to answer determinations and should not appear to determine if any failures by officers have breached the standards of professional behaviour. That is not to suggest that the Chairman's findings will be irrelevant, they will have authority and be considered with great care; should he consider it appropriate, he may draw the IOPC's attention to any findings or matters which he believes are relevant to its functions, including re-opening.

Gross Negligence Manslaughter

5. Mr Baker's family's submissions¹ argue that there should be a short form verdict of 'unlawful killing' by former DCI Neil Williams (DCI Williams) on the basis of Gross Negligence Manslaughter. As set out in Appendix B to the IOPC's closing

¹ Paragraphs 7(6)(v) and 364-365

submissions, at paragraph 20, DCI Williams was not treated as a criminal suspect in its investigation for this (or any other offence).

6. In the IOPC's view, even if DCI Williams acts or omissions were suspected to be a factual (but for) and more than de minimis cause of the death, W80's decision to shoot Mr Baker is legally to be regarded as the sole cause of his death (or novus actus interveniens)². It nonetheless determined that, on the evidence available, he had a case to answer for misconduct.

Retirement of DCI Williams

7. With reference to paragraph 349 of Mr Baker's Family's submissions, as explained in the IOPC's own closing submissions at paragraph 27, the amended regulations do not in fact provide for disciplinary proceedings against a retired officer in DCI Williams position, for whom there is a case to answer for misconduct (but not gross misconduct).

Delay in converting to a Public Inquiry

8. The IOPC supports Mr Baker's family's submissions³ regarding the delay in the conversion of the inquest to an inquiry and would welcome the opportunity to work with others so that the process may be better streamlined in future.

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2 September 2021

² 19-7 of Archbold Criminal Pleadings and Evidence 2021.

³ Paragraph 384