

Witness Name: Catherine Hall No. 1

Dated:30 July 2021

## PUBLIC INQUIRY INTO THE DEATH OF JERMAINE BAKER

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### WITNESS STATEMENT OF CATHERINE HALL

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#### **Introduction**

1. I was the Lead Investigator in the IOPC's investigation into the death of Jermaine Baker.
2. I make this statement, at the request of the solicitor to the Inquiry, following Superintendent Dobinson's evidence on 17 July 2021, to explain:
  - a. The IPCC's role regarding the suspension of W80.
  - b. The IPCC's views on the legal requirements for suspension of an officer in December 2015.
3. References given below are to the Unique ID for documents in the Inquiry's relativity database.

#### **Chronology**

##### ***Sunday 13 December 2015***

**5.33pm: [IPC0000272]** By email Commissioner Cindy Butts informed DAC Taylor, the Metropolitan Police Service (MPS) Appropriate Authority (AA) that a conduct matter should be recorded for W80 because:

*'there is an indication that a criminal offence may have been committed by W80, the criminal offence being that of murder'.*

Additionally, Commissioner Butts made representations that:

*The investigator has considered whether or not it is necessary for W80 to be arrested, having regard, in particular, to the risk that the investigation may be prejudiced or*

*obstructed by contact with witnesses. Having regard to Regulation 10 (4)b(i) of the Police (Conduct) Regulations 2012 the investigator has decided that should the MPS as Appropriate Authority, suspend W80 and providing that he is also given a warning about and contact/conferral then that would be sufficient to mitigate risks. Our reasoning for supporting suspension is to ensure that W80, as far as is possible, does not have contact with any witnesses, in particular any CO19 officer. Accepting of course that suspension is entirely a matter for yourselves, as the appropriate authority, I am setting out my views now because of the urgency, since further to Regulation 10 (12), you will be required to consult with me.*

**6.24pm:** DAC Taylor gave authority to suspend this was later recorded in writing on MPS form 728 [MPS0003218].

**6.27pm:** DAC Taylor advised the IOPC of the authority to suspend and asked AC Pat Gallan to arrange for the W80 to be notified of the suspension "this evening".

I recollect that following this email exchange in telephone communications with MPS Department of Professional Standards (DPS), they told me they believed W80 could not be formally suspended without a notice of investigation. I took legal advice from the IPCC legal department who advised this was not the case, which I passed on to DPS but I received a message back that they did not need to under the legislation but that it was MPS policy. This is referenced in emails at 12.08 am and 06.06am on 14 December. These emails follow on in the same chain as those produced in IPC0000272 but are not included in that printed version of the chain. I therefore produce as CH/1 the same email chain but including these later emails.

**Approx 11.18pm:** Commissioner Butts was telephoned by AC Pat Gallan and recorded in an email:

*Just took a call from Pat Gallan.*

*W80 .....has been informed that the investigation is criminal. His warrant card has been removed and he has had the conferring warning. Fiona Taylor had a discussion with MPS lawyers and they concluded that he can't be formally suspended until they are in receipt of the formal notice.*

*They are expecting this early tomorrow morning.*

#### **14 December 2015**

**Approx midnight:** Supt. Dobinson attended W80's address. It is now apparent that he had not and did not remove W80's warrant card [MPS00000087\_005].

**10.30 am:** I emailed the completed Regulation 16 notice to DI Richard Milton and Andy Beckford in MPS Department of Professional Standards.

**10.53 am:** DI Richard Milton acknowledged receipt and stated that he had forwarded it to the Superintendent "who is serving the form". I produce the email chain as CH/2.

**1.47pm:** DSU Dobinson received forms 161 and 163 from DPS.

**16.30pm:** DSU Dobinson attended W80's home address but he was absent.

### **The Law**

4. The relevant provisions for suspension are contained in the Police (Conduct) Regulations 2012:

#### **5.— Application**

(1) These Regulations apply where an allegation comes to the attention of an appropriate authority which indicates that the conduct of a police officer may amount to misconduct or gross misconduct.

(2) Where an appropriate authority is considering more than one allegation in relation to the same police officer, the allegations may be taken together and treated as a single allegation for the purposes of any provision of these Regulations which requires a person to make an assessment, finding, determination or decision in connection with conduct which is the subject matter of an allegation.

#### **10.— Suspension**

(1) The appropriate authority may, subject to the provisions of this regulation, suspend the officer concerned from his office as constable and (in the case of a member of a police force) from membership of the force.

(2) An officer concerned who is suspended under this regulation remains a police officer for the purposes of these Regulations.

(3) A suspension under this regulation shall be with pay.

(4) The appropriate authority shall not suspend a police officer under this regulation unless the following conditions ("the suspension conditions") are satisfied—

(a) having considered temporary redeployment to alternative duties or an alternative location as an alternative to suspension, the appropriate authority has determined that such redeployment is not appropriate in all the circumstances of the case; and

(b) it appears to the appropriate authority that either—

(i) the effective investigation of the case may be prejudiced unless the officer concerned is so suspended; or

(ii) having regard to the nature of the allegation and any other relevant considerations, the public interest requires that he should be so suspended.

(5) The appropriate authority may exercise the power to suspend the officer concerned under this regulation at any time from the date on which these Regulations first apply to the officer concerned in accordance with regulation 5 until—

(a) it is decided that the conduct of the officer concerned shall not be referred to misconduct proceedings or a special case hearing; or

(b) such proceedings have concluded.

(6) The appropriate authority may suspend the officer concerned with effect from the date and time of notification which shall be given either—

(a) in writing with a summary of the reasons; or

(b) orally, in which case the appropriate authority shall confirm the suspension in writing with a summary of the reasons before the end of 3 working days beginning with the first working day after the suspension.

(7) The officer concerned (or his police friend) may make representations against his suspension to the appropriate authority—

(a) before the end of 7 working days beginning with the first working day after his being suspended;

(b) at any time during the suspension if he reasonably believes that circumstances relevant to the suspension conditions have changed.

(8) The appropriate authority shall review the suspension conditions—

(a) on receipt of any representations under paragraph (7)(a);

(b) if there has been no previous review, before the end of 4 weeks beginning with the first working day after the suspension;

- (c) in any other case—
  - (i) on being notified that circumstances relevant to the suspension conditions may have changed (whether by means of representations made under paragraph (7)(b) or otherwise); or
  - (ii) before the end of 4 weeks beginning with the day after the previous review.
- (9) Where, following a review under paragraph (8), the suspension conditions remain satisfied and the appropriate authority decides the suspension should continue, it shall, before the end of 3 working days beginning with the day after the review, so notify the officer concerned in writing with a summary of the reasons.
- (10) Subject to paragraph (12), where the officer concerned is suspended under this regulation, he shall remain so suspended until whichever of the following occurs first—
  - (a) the suspension conditions are no longer satisfied;
  - (b) either of the events mentioned in paragraph (5)(a) and, subject to paragraph (11), (5)(b).
- (11) Where an officer concerned who is suspended is dismissed with notice under regulation 35 he shall remain suspended until the end of the notice period.
- (12) In a case to which paragraph 17, 18 or 19 of Schedule 3 to the 2002 Act (investigations) applies, the appropriate authority must consult with the Commission—
  - (a) in deciding whether or not to suspend the officer concerned under this regulation; and
  - (b) before a suspension under this regulation is brought to an end by virtue of paragraph (10)(a).

5. The relevant Home Office Guidance<sup>1</sup> repeats the requirements in the legislation and paragraph 2.44 advises, only, *‘that the officer should be told exactly why he or she is being suspended, and this should be confirmed in writing. If suspension is on public interest grounds, it should be clearly explained, so far as possible, what those grounds are’*.
6. I am aware of other cases where an officer has been notified of their suspension orally, in accordance with regulation s10(6)(b), most commonly following an officers arrest and criminal interview (it is common practice for professional standards departments not to serve a notice of investigation until after criminal interview).
7. It follows from the above:
  - a. By regulation 10, suspension is a matter for the AA, DAC Taylor. By regulation 10(12) where the officer concerned is the subject of an IPCC investigation, as in this case, it must be consulted. Due to the urgency, the IPCC made its representations in the email at 5.33pm rather than waiting to be consulted after the conduct matter was recorded.
  - b. DCI Lilburn’s evidence [MPS 0001048-001], implying that a “Regulation 16”<sup>2</sup> notice of investigation is required before suspension is not supported by the legislation.

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<sup>1</sup> V4 Home Office Guidance on Police Officer Misconduct May 2015 para 2.37-2.50

<sup>2</sup> Note this regulation 16 Police (Complaints and Misconduct) Regulations 2012, not the Police (Conduct) Regulations 2012 otherwise referred to.

- c. Under paragraph 10(6)(b) there is express provision for the suspension to be made orally, in which case it must be confirmed in writing with a summary of the reasons before the end of 3 working days beginning with the first working day after the suspension.
- d. Form 163 referred to in Supt Dobinson's evidence [MPS000087-1] is not prescribed by the legislation and is not required for a suspension.
- e. Paragraph 2.1 of "*Guidance for superintendents involved in suspensions*" [MPS000201] stating that form 163 must be served appears to be an internal MPS document. I do not believe it has any legal authority or that it had been shared with the IPCC or consulted on. It appears that Supt Dobinson, now accepts it may have been wrong (transcript 17 July p35 L2).

### **Summary**

- 8. The IOPC had provided DAC Taylor, who was the AA for the MPS, with all the information it believed she required to suspend W80. She asked for no further information and suspended him at 18.24 pm on 13 December 2015.
- 9. Legally, what Supt Dobinson, was to refuse to notify W80 of his suspension. His refusal was due to a belief that form 163 and/or a regulation 16 notice was required before he could do so. In the IOPC's view that belief was incorrect. In my opinion the information provided to the AA, that W80 was suspected of murder, was sufficient to provide him with the oral summary required by regulation 10(6)(b). In any event it could have been included by DCI Lilburn in a form 163 but according to Supt Dobinson's evidence they decided "*neither she nor I could or should write that rationale down*" (transcript 17 July 2021 page 6 lines 2-10).
- 10. I note the reference, in Ms Butt's summary of her call with AC Gallan at 11.18pm, to DAC Taylor receiving advice from MPS lawyers but I can find no reference in the evidence provided to the Inquiry of such advice being received. As set out above, acting on my own legal advice I challenged the views being expressed to me by DPS officers and was then told it was a matter of guidance rather than the regulations. As above it appears now to be accepted that the guidance was incorrect.
- 11. I note that the evidence is now that Supt Dobinson also failed to remove W80's warrant card which was contrary to what AC Gallan appears to have told Ms Butts (in fact at a time before Supt Dobinson had even visited him).

**Statement of Truth:** I believe that the facts stated in this witness statement are true. I understand that proceedings for contempt of court may be brought against anyone who makes, or causes to be made, a false statement in a document verified by a statement of truth without an honest belief of its truth.

Signed Catherine Hall

Dated 30 July 2021