

COUNT ONE ACCOUNTS – CONSIDERED BY MR METCALF

Officers in relation to whom amendments were not made or any amendment was of no significance

Beardshall; Castleton; Beresford; Cammock; Dexter; Frost; Grant; Guest; Higgins; Humphries; Keenan; Millett; Morgan; Oakes; Paterson; Purdy; Rich; Sewell; Tissington; Tomlinson; Townend; Walker; Yates

References to some of those accounts follow by way of illustration

Beardshall/Castleton

Both officers had been on duty at the semi-final in 1988. Their first accounts described pressure at the turnstiles at the Leppings Lane end such that they were pressed up against a wall so that they could not move.

Mr Metcalf said that their recollections were not helpful to the SYP case but that they should remain if the recollections were factual. He invited each officer to consider qualifying his account by reference to: mounted police officers having eased the problem; an indication that the problem was short-lived if that were the case; an indication that, having watched the videos for 1988 and 1989, the 1988 situation was not as bad as in 1989.

P.C. Beardshall provided a further account in which he described the effect of the mounted officers' intervention, he said that the crushing lasted for 5 to 10 minutes and he referred to viewing the videos of 1988 and 1989 which showed that the problems in 1988 were nowhere near as bad as in 1989. He did not amend his first account.

P.C. Castleton also provided a further account. He said that the mounted police officers alleviated the crushing though the area remained tightly packed. He said that the problem was not short-lived. By reference to video material he agreed that the position in 1989 was "far, far more severe" than in 1988. He did not amend his first account.

Mr Metcalf posed propositions for the officers' consideration. They were free to accept them or not. He did not suggest any amendment to the original accounts.

Beresford

Mr Metcalf's only comment was: "Insofar as the references to communications difficulties represent comment, rather than part of the narrative, these perhaps could be reviewed."

Beresford's comment "and indeed very few transmissions appeared to have been made from 2.30 p.m. onwards" was deleted, this comment following "The radio messages were totally incoherent..." The latter passage was retained. Where he had said "no messages had been passed by radio or via the PA system", the words were replaced with "I did not hear messages passed by radio or via the PA system". He described being unable to contact Ground Control by radio. The language of his failure to do so was changed but the sense remained the same. He said that early attempts to contact Control had resulted in no response. The account was amended to read that he had not heard any response to his call.

Whichever passages Mr Metcalf was intending to refer, his advice related only to comment made by the officer rather than any factual description. In the event the amendments made were of cosmetic significance only.

Cammock

The officer gave a description of the pre-match briefing.

Mr Metcalf suggested a review of the description so as to ensure that it was not exaggerated and to enable the officer to consider whether he wanted the language he used to be put before the Taylor Inquiry. Mr Metcalf said that there should be no change if the officer was happy with the account as it was.

The description was amended. The fact that the officer could not hear some of what was being said and had to refer later to match orders was retained.

Mr Metcalf's advice was intended to assist the officer. The amendment made did nothing to alter the sense of what he said. Mr Metcalf would have been content for the statement to remain unaltered if that is what the officer wanted.

Dexter

The officer concluded his statement with the sentence "I did not know what was going on".

Mr Metcalf suggested removal of the last sentence. The officer at more than one point earlier in his account had said that he had no idea what was happening and that, even as people were being carried away on stretchers, he did not know what had occurred.

In the event the penultimate sentence also was removed which was the officer's observation that there was lack of communication whilst in the ground. This was a comment drawn from the facts already set out by him.

The proposed amendment was of no significance at all. The actual amendment did not alter the sense of the officer's account.

Frost

When describing the arrangements at the gymnasium to which the dead and the injured were taken, the officer said that nobody seemed to be organising the injured although there were higher ranking officers present.

Mr Metcalf said that this comment could be reviewed. It was deleted. However, the officer had previously said that injured fans had been brought to the gym area and just left lying on the ground and that a young boy had been left on his back and had difficulty breathing. Earlier in his account he had spoken of “utter confusion” at the Leppings Lane end as the disaster unfolded with no direction as to where to take casualties.

The amendment took nothing away from the officer’s evidence. His description was consistent only with a lack of organisation which may be why he made the comment he did.

Higgins

The officer had been on duty at the 1988 semi-final. He said that his duty was to control fans entering the central pens at the Leppings Lane end. He said that he had received an instruction to close the gates to the entrance. He could not recall from where the instruction came. In his statement he did not say whether he had closed the gates.

Mr Metcalf posed various questions to clarify the evidence given by this officer (and two of his colleagues, neither of whom figure in the evidence). There was a delay in obtaining a further statement. The officer had retired from the police and he was working on Tyneside. The further statement provided no further detail or clarification. Both statements were sent to WMP.

Mr Metcalf’s questions were legitimate given the lack of detail and explanation in the first statement. In the event no useful clarification was achieved but both statements were provided. The delay was entirely explicable.

Keenan

This officer also had been on duty in 1988. He gave an account similar to that provided by Beardsall and Castleton. Mr Metcalf expressed concern about his comments about the crush at the turnstiles and asked if he had seen the 1988 video. He then said “if he is quite certain of his comments, then so be it”. The officer did maintain his account and no amendment was made.

By reference to independent material Mr Metcalf asked the officer to consider his comments. He accepted that the officer may wish to maintain them which is what he did.

Purdy

The officer's statement dealt in some detail with the events at the Leppings Lane end. He referred at one point to Liverpool fans as "animals" in a purely pejorative manner. He made references to "tunnel" when the context seemed to indicate that he meant "funnel". His language was colourful and his description rambling.

Mr Metcalf advised removal of the disparaging reference. He invited the officer to consider whether he did mean to refer to "funnel". He suggested wholesale review of the statement to render it prosaic and factual.

The officer's reference to "animals" was removed. It was clarified that it was "funnel" not "tunnel". Significant portions of the statement were re-written in less graphic terms.

Mr Metcalf did not advise excision or removal of any section of the statement. His advice was appropriate given that the officer concerned was an Inspector whose evidence might be expected to be of some import.

Sewell

Inspector Sewell made several comments saying how efficient SYP were at policing football matches at Hillsborough, how the previous year's semi-final had been a total success and that the 1989 match was a success in every way up to approximately 2.45 p.m.

Mr Metcalf pointed out that these references were a hostage to fortune, not least because the 1988 semi-final had ended with a pitch invasion. Removing the references meant that comments favourable to SYP were excised. Mr Metcalf did require the omission of a comment about the presence of Chief Superintendent Mole. This was further material favourable to SYP.

The amendments were of no significance to the account given by the officer. What was removed on the face of it was favourable to SYP.

Townend

The officer provided an addendum 24 hours after completing his initial account. The addendum expressed his frustration at not being aware of what was happening. He said radio communication was useless and that the PA system was not utilised.

Mr Metcalf's advice was that he might wish to review his addendum. The passage was re-written so as to indicate that it was difficult to ascertain what was happening, that police radio messages were indecipherable and that the officer heard no announcements over the PA system.

The meaning of the amended passage was in substance the same as the addendum. It was expressed in factual terms. Nothing was suggested or done which removed any matter of significance.

Yates

The officer was at the Leppings Lane end. After describing a situation at the turnstiles which indicated a loss of control by the police, he said that gates were opened which allowed approximately 3,000 Liverpool fans to surge through the gates. According to him they all went down the central tunnel.

Mr Metcalf's advice was that this description did not appear to be borne out by the video evidence and that the officer should consider his comments. The only amendment was that "approximately 3,000" was replaced by "numerous".

Mr Metcalf was entitled to draw the officer's attention to the video evidence. In the event the amendment was of no significance. Whether "numerous" or "approximately 3,000" the evidence remained that fans had allowed to go in numbers down the central tunnel without any supervision or control.

The 23 accounts of which the above are illustrative examples could not be regarded by any reasonable jury as tending to pervert the course of justice in any context. The fact that one third of the accounts relied on by the prosecution fall into this category is hardly determinative. However, it is of note that the prosecution maintain the view that they are part of the whole picture and show the system that was adopted. The case is put on the basis that the amendments relied on were part of a vetting process designed to mask failings on the part of SYP. These amendments could not be found by any reasonable jury to have had that object.

Officers in relation to whom amendments were made but other passages in their account made the same point or covered the same matters as the amended passage

Bradley; Brophy; Burgess; Dunn; Gardiner; Groome; Hooson; Huckstepp; Lang; Ramsden; Wadsworth; Winter

By way of illustration

Burgess

Mr Metcalf queried whether the officer was sure about the timing of the message he heard about delaying the kick-off given that it was not consistent with any other witness. Since the officer himself said that his timing was just a guess, the query raised was appropriate.

Mr Metcalf also suggested that the account should conclude at the point when the officer said he went off duty. The account thereafter was an impressionistic view of the confusion as the disaster unfolded with references to it being difficult to ascertain what was happening in part due to poor radio communication and to a lack of senior officers co-ordinating assistance.

The factual part of the account stated that radio communication was distorted and that the officer heard very little on his radio. It also said that officers were milling around not knowing what to do. The officer said that he was approached frequently by officers wanting to know what to do.

The omission of the impressionistic concluding passage of the account did not remove the substance of what was said there since it was dealt with in the narrative within the account.

Huckstepp

Mr Metcalf suggested removal of the last paragraph of the statement since it amounted to comment. The officer said that there “seemed to be” communication problems, that the crush outside the ground could possibly have been better controlled and that it might possibly have been better to direct fans into the terraces on the side areas. These were comments.

The officer had given a long and detailed factual description of the situation at the turnstiles. It was clear that the area was not properly controlled, not least because at one point he and one other colleague were the only police officers there. The communication problems were covered by the officer saying that there was a lot of confusion as to what was happening.

Nothing in the deleted passage removed the substance of the officer's evidence. This was the officer whose original and amended accounts were provided in error to the Inquiry and, as already noted, no comment was made by Counsel to the Inquiry as to the propriety of any amendment.

Winter

This officer provided a typed statement with numbered paragraphs. Mr Metcalf advised the omission of paragraph 7. The paragraph began with the words “My feelings at this point...” and continued with his “observations” on aspects of the events of the day.

The officer was concerned with events once the crushing of fans in the central pens had begun rather than with the build-up. He was not deployed at the Leppings Lane end. He gave a detailed narrative of the rescue efforts by officers who went onto the pitch to assist. He said that “everything was in chaos, there was no guidance on what to do”. This was compelling evidence of the lack of coordination from his direct observation.

Mr Metcalf did not remove any part of the factual narrative from the officer's account. Deleting paragraph 7 did not mask the failings of SYP which were apparent from that factual narrative.

Amending an account to remove comment whilst leaving factual observations in situ which go to the same issue as the comment could not be considered by a reasonable jury as an act tending to pervert the course of justice.

Officers where pure comment was removed

Brookes; Dawson; Eustis; Hanson; Holmes; Jowitt; Royle; Shipman; Thomas; Walpole; Wilson; Woodward

By way of illustration

Hanson

The officer was not on duty at the Leppings Lane end. His account was concerned with the efforts to help once the disaster had begun to unfold. His account concluded with the words “I don’t really like to comment...but...” at which point he offered two comments by way of questions. He asked why the kick-off was not delayed and why police officers did not guide fans to the side pens.

Mr Metcalf suggested that the account ended just before the words quoted. This section was omitted from the account submitted to WMP. The questions he posed were amongst those being considered by the Inquiry. The officer was not in a position to offer an answer to the questions.

To remove pure comment on a topic about which an officer could have had no personal knowledge did not affect the substance of his narrative.

Jowitt

This was an officer who was on duty at a road junction some distance from the ground. At the end of his account he gave answers to the additional questions posed by Chief Superintendent Wain after the advice given by Mr Woodward. Thus, he said that he did not see a steward where he was, that he was not informed of what was occurring and that Special Constables had radios when he did not.

Mr Metcalf suggested that these answers should be omitted and they were. The relevant factual information was set out earlier in the statement i.e. the officer did not have a radio, he asked senior officers who passed by whether he was required to go to the ground and he was given no response or direction.

Insofar as the additional material at the end of the account was not comment, it was dealt with as part of the narrative account.

What was said by Lord Justice Taylor on 28 April 1989 indicated to any lawyer listening that written accounts provided to the Inquiry were to be factual rather than comment or opinion. That view was reinforced by what was said by Sir Andrew Collins on 15 May. If what Mr Metcalf advised be omitted or reviewed sensibly could be categorised as comment or opinion, no reasonable jury could conclude that his act tended to pervert the course of

justice. The witnesses concerned were witnesses of fact whether for the purposes of the Inquiry or any other purpose.

The accounts of Bennett, Hood, Kirkby, Lindsay, Moore, Powell and Savory involved omissions or deletions where the categorisation of the relevant passage as comment is more arguable. The comment was interwoven with factual material in some cases. However, a reasonable jury would not be able to conclude to the criminal standard of proof that the act of Mr Metcalf in those cases either had a tendency to pervert the course of public justice or that he intended to pervert the course of public justice. By way of example, Powell was an officer who commented about a lack of police presence at the Leppings Lane end turnstiles. Whilst Mr Metcalf advised deletion of this comment, the same point was made in the accounts of Grant, Hooson, Huckstepp, Oakes and Ramsden. In all of those cases Mr Metcalf did not advise any amendment.

The prosecution case is that the intent to pervert the course of justice is demonstrated by the removal of criticism as set out in the Salmon letter. The proposition that there was a systematic removal of such matters is unsustainable. A document entitled Foster – Desk Schedule A is before the jury. It refers to 49 amended accounts including the majority of those in respect of which Mr Metcalf advised. In almost every case there is reference to one or more of the matters set out in the Salmon letter. By way of example 16 of the accounts in relation to which Mr Metcalf advised made reference to police officers thinking that a pitch invasion was in progress or likely to occur. 17 of the accounts refer to radio problems of one kind or another. The prosecution say that this merely shows that Mr Metcalf was ineffective in his actions on occasion with the pressure of time under which he was operating providing an explanation. If there were regular examples of (say) removal of passages about a pitch invasion, this submission would be a matter for consideration by the jury. That is not the position. Though the fact that many criticisms were retained in the accounts in one sense is a jury point, it is significant in an overall assessment of whether any reasonable jury could reach the conclusion for which the prosecution contend.

The accounts of Crawford, Creaser, Goddard and White are the accounts in respect of which Mr Metcalf was cross-examined at length when he gave evidence at the inquest presided over by Sir John Goldring. Were the Taylor Inquiry to have been proceedings amounting to the course of public justice, they would have provided the basis of a case to answer in respect of Mr Metcalf. Mr Metcalf himself after the event considered that what he advised in relation to Crawford, Goddard and White was “an error of judgment”. Arguably it would be harsh to categorise his acts as the criminal offence charged but it would not be possible to withdraw the case from the jury in relation to those officers. Whether it would be regarded as fair to proceed against a solicitor 31 years after the event in relation to a tiny proportion of the accounts in respect of which he advised is not for me to say. In any event the case against him on these counts is dependent on other factors.