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GOVERNMENT TO CHANGE LAW TO ENABLE INQUESTS TO HEAR SECRET EVIDENCE

The family of Azelle Rodney, a 24-year-old black man who was shot dead by the Metropolitan Police following a pre planned operation on Saturday 30 April 2005, today welcomed a Government decision to table a bill in Parliament to enable inquests to hear 'sensitive material'.

While welcoming this decision Azelle's mother, Susan Alexander, asks the government to publish and table the Bill without delay. She also asks for all-party support to push the Bill swiftly through all its stages, so that she can finally see all the evidence collected by the Independent Police Complaints Commission (IPCC) and an inquest into her son's death can take place as soon as possible.

Susan Alexander said:

"For a long time now I've been very frustrated and upset by not being able to see vital evidence about the police shooting of my son. Sometimes I feel so angry about this I just can't speak. Now that the government agrees that this evidence shouldn't be withheld from bereaved families like ours, I hope all concerned can act quickly so the evidence is disclosed with minimum delay. None of Azelle's friends and family can come to terms with his death until everything is out in the open and a full inquest has taken place. Azelle has not had justice and without justice there can be no accountability."

Deborah Coles, Co-director of INQUEST, said:

"It is clearly in the interests of fairness and justice for the family that this is acted on urgently so that the inquest date can be set, particularly given public disquiet about fatal shootings by police officers in London."

BACKGROUND

On Friday 30 November 2007, the government's lawyers informed solicitors acting for Susan Alexander of the above decision in response to threatened legal action.

Susan Alexander believes that the IPCC has failed to give her full pre-inquest disclosure of evidence collected during its investigation into her son's death because of criminal offences connected with the release of evidence obtained through the use of bugging devices, enacted in the Regulation of Investigatory Powers Act 2000 (RIPA). This has made it impossible to proceed with a proper inquest into her son's death.

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Inquest

As reported by the BBC on 5 November 2007¹, following a ruling by HM Deputy Coroner Andrew Walker in August 2007, Susan Alexander demanded a change to the law by the Justice Secretary or Home Secretary, failing which she would be forced to seek a Court declaration under the Human Rights Act 1998 that RIPA is incompatible with article 2 of the European Convention on Human Rights 1950.2.

RIPA – inquests not previously taken into account by Parliament

Since April 2005, IPCC investigators appear to have been under the sword of RIPA: they would have committed criminal offences if they gave Susan Alexander transcripts of any evidence obtained through phone taps etc. or even told her that such evidence exists or if an intercept warrant was obtained by the police before the shooting.

As a result, until now, she believes that she has not been allowed to see all of the evidence collected by the IPCC, including some of the statements made by the officer who killed her son, known only to her as E7. Susan Alexander believes E7 was aware of information obtained by one or more bugging device(s).

As E7 relies on withheld information to justify his decision to use fatal force against Azelle Rodney on 30 April 2005, fairness and justice demands that Susan Alexander sees that evidence and that an inquest jury has an opportunity to consider its relevance when they examine all the circumstances surrounding the death.

Unless and until RIPA is changed, evidence obtained by intercept warrants can only be disclosed to third parties following judicial decisions in *criminal proceedings*, but not during inquests or within civil proceedings. It seems that Parliament simply failed to take into account the full human rights implications of sections 18-19 of RIPA when the Bill was debated in 2000.³

Notes to editors

- Azelle Rodney was killed by armed police in Edgware, north London, on 30 April 2005. The inquest into Azelle Rodney's death was opened on 5 May 2005 and adjourned, pending the outcome of a criminal investigation by the IPCC.
- In July 2006, the CPS advised the IPCC that there was insufficient evidence to justify criminal charges against any police officer involved in the case. Since then, for almost 18 months Susan Alexander has sought full pre-inquest disclosure from the IPCC and a proper inquest into her son's death.

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¹ <http://news.bbc.co.uk/1/hi/uk/7076326.stm>

² Article 2 ECHR, which protects the right to life, requires the government to have in place a proper procedure for ensuring the accountability of agents of the state so as to maintain public confidence and allay the legitimate concerns that arise from the use of lethal force. (See para 144, *Jordan v UK* (2001) 37 EHRR 52).

³ See [sections 15-19 RIPA](#):

Inquest

- s17 RIPA makes it an offence to breach the requirement to keep secret all the matters mentioned in subsection (3), namely:
 1. the existence and contents of the [intercept] warrant and of any section 8(4) certificate in relation to the warrant;
 2. the details of the issue of the warrant and of any renewal or modification of the warrant or of any such certificate;
 3. the existence and contents of any requirement to provide assistance with giving effect to the warrant;
 4. the steps taken in pursuance of the warrant or of any such requirement; and
 5. everything in the intercepted material, together with any related communications data.
- It appears that the offences created by s17 RIPA, combined with the failure of Parliament to create a sufficiently wide exception in section 18(9) and (10) RIPA to cover inquests is standing in the way of compliance with article 2 ECHR. Any Bill will need to remedy this for an inquest to take place that will comply with article 2 ECHR.

INQUEST is the only non-governmental organisation in England and Wales that works directly with the families of those who die in custody. It provides an independent free legal and advice service to bereaved people on inquest procedures and their rights in the coroner's courts.

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