UK: Jury fails to reach verdict against top police officer over Hillsborough football disaster

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The jury in the trial of David Duckenfield, the former Yorkshire police chief superintendent in charge of policing at Hillsborough football stadium when 96 Liverpool supporters died in April 1989, was dismissed last week after failing to reach a verdict.

Duckenfield was charged with the criminal offence of gross negligence manslaughter of 95 of the supporters. Under the law at the time, he was not charged over the death of the 96th victim, Tony Bland, as he died more than a year and a day after the disaster.

The decision at Preston Crown Court came despite the trial judge, Sir Peter Openshaw, saying he would be prepared to accept a 10 to 2 majority verdict.

The deaths were the result of a crush when Liverpool supporters at the Leppings Lane end of the Hillsborough ground in Sheffield, South Yorkshire, entered the ground after an exit gate was opened—under instruction from Duckenfield—and were funnelled into an already overcrowded pen.

The Crown Prosecution Service (CPS) legal director Sue Hemmings said, “I can confirm the CPS will seek a retrial against Mr Duckenfield for manslaughter by gross negligence of 95 men, women and children.” According to Openshaw, a retrial would be held again at Preston Crown Court in September.

The other defendant in the trial was Graham Mackrell, club secretary and safety officer at Sheffield Wednesday Football Club at the time of the disaster. He was charged with failing to agree with police on the number of turnstiles to be made available for Liverpool fans at Leppings Lane. He was also accused of not drafting a plan to deal with large numbers of fans accumulating outside the Leppings Lane entrance.

Mackrell was found guilty, on a 10 to 2 majority verdict, of not discharging his duty under the Health and Safety at Work Act 1974 and will be sentenced on May 13.

April 15 will mark 30 years since the Hillsborough deaths. That there was any trial at all is only down to the determination and fortitude of the survivors and families of the victims, who have fought relentlessly for justice.

An official report on the disaster by Lord Justice Taylor published just months after the disaster, in August 1989, accused police of mismanagement and noted their readiness to apportion blame to the Liverpool fans. However, no charges were ever laid or disciplinary measures enacted.

An inquest jury returned a majority verdict of accidental death in March 1991. Six of the families of the bereaved applied for a judicial review to quash the inquest verdict, but the request was rejected in November 1993.

In 1997, Jack Straw, Home Secretary in the newly elected Blair Labour government, ordered a scrutiny of new evidence. It had emerged that 164 South Yorkshire police officers had changed their accounts of events at Hillsborough before being presented to the Taylor inquiry. Regarding calls for a new public inquiry, however, Prime Minister Tony Blair wrote, “What is the point?” after Straw claimed that the new evidence hadn’t added “anything significant” to the material available to the Taylor inquiry.

It was only in December 2009 that the Labour government finally bowed before widespread anger over the official report and established the Hillsborough Independent Panel (HIP).

HIP published its report in September 2012. The then-Conservative Home Secretary Theresa May had to accept its findings.

The findings of the 1991 inquest were overturned. A new inquest held in Warrington in northwest England

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began in 2014 and gave its verdict in April 2016 that 96 men, women and children were killed unlawfully.

Nearly 30 years after the disaster, only one person has been found guilty of anything in relation to Hillsborough. No individual police officer, the South Yorkshire Police, the Football Association, Sheffield Wednesday Football Club or any other entity have been found guilty of the deaths.

If Duckenfield is not found guilty in a retrial, then based on the CPS's statements and rationalisations no one responsible for the deaths can ever be brought to justice.

A retrial of Duckenfield, said Openshaw, would replace the scheduled trials of three other defendants charged with perverting the course of justice following the Hillsborough disaster. These are Peter Metcalf, the solicitor acting for the South Yorkshire Police during the Taylor Inquiry and the first inquests, Donald Denton, the former Chief Superintendent of South Yorkshire Police and Alan Foster, the former Detective Chief Inspector of South Yorkshire Police.

Numerous others who played a prominent role in events leading to the deaths and its political cover up have escaped justice.

Charges against Sir Norman Bettison, a chief inspector in the South Yorkshire police force at the time, were dropped in August last year. He faced four counts of misconduct in a public office over his role in trying to blame the fans for what happened. The CPS withdrew the case after one witness died and contradictions came to light in the evidence of another two.

No corporate charges have been brought. Although Mackrell was an employee of Sheffield Wednesday, which owned and operated the Hillsborough ground, the company was not indicted. The directors of the club at the time simply dissolved the company that owned the club.

In June 2017, as the cases were committed to trial Sue Hemming, director of legal services for the CPS, said "Sheffield Wednesday PLC… is the legal entity, existing only on paper, which was Sheffield Wednesday Football Club in 1989. Sheffield Wednesday Football Club as it exists today is a different company and as it is not a successor organisation, is not criminally liable for any offences that might have been committed."

Even though there was sufficient evidence that Sheffield Wednesday PLC had committed a health and safety offence, "it is not in the public interest to prosecute now." Hemming added. "Even if the company were to be found guilty… there could be no penalty as it does not have any assets with which to pay a fine and no-one else liable to pay it."

Many of the major figures who bore responsibility are no longer alive. The Conservative government headed by Prime Minister Margaret Thatcher backed the right-wing media smearing of Liverpool fans. Thatcher died in 2013 and Sir Irvine Patnick, the then Tory MP for Sheffield Hallam, died in 2012.

Also dead are Peter Wright, the chief constable of South Yorkshire police at the time, Stefan Popper who oversaw the now discredited original inquest into the disaster in 1991, and police superintendent Bernard Murray who was the ground commander on the day.

All the evidence to mount a successful prosecution was available in the immediate aftermath of the disaster. Rather than the inquest procedure, a criminal trial should have been mounted. Instead, successive governments have allowed decades to pass, utilising various mechanisms and institutions of the capitalist state to ensure no-one has been found guilty.

The same methods of obfuscation, delaying and denial of justice are being played out today in relation to the Grenfell fire, in which 72 people died. Once again, all the evidence as to the causes and the identity of the those involved in political and corporate circles is available to bring criminal prosecutions. Yet the Metropolitan Police have stated that any possible criminal proceedings will not take place until after Sir Martin Moore-Bick's official inquiry is over.

The fire took place in June 2017, yet the first phase of the inquiry only ended in December 2018 and the second phase may not begin till 2020, meaning, in the words of the Metropolitan Police, that it is "unlikely" that any action will be taken by them against anyone until late 2021.

The author recommends:

UK: Trial begins of police commander in 1989 Hillsborough football disaster
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The Hillsborough disaster as it unfolded
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