



## Body of evidence

by Martin Smith

Illustration: Julia Quenzler

The inquests into the deaths of Diana, Princess of Wales, and Dodi Al-Fayed produced a transcript containing nearly four times as many words as the Bible. Martin Smith explains the key role of technology in this historic event

**‘MEMBERS OF THE JURY, IN THE EARLY HOURS OF** Sunday 31 August 1997, a Mercedes motor car, in which Diana, Princess of Wales was a passenger, crashed into a pillar in the central reservation of the Alma Underpass in Paris. Most, if not all of you, will remember where you were when you heard about the subsequent death of the Princess of Wales. None of you would, for a moment, have thought that over ten years later you might be on a jury investigating the events relating to that tragic August night.’

With these words, Lord Justice Scott Baker opened the inquests into the death of one of the most famous women in the world and her companion one Tuesday in early October 2007. He continued that ‘quite literally millions of words [had] been written by a great many people expressing views on what did or did not happen’ and that this was a subject on which ‘most members of the British public and many overseas appears to have a view’. The jury’s task, and an onerous one, was to weigh the evidence and reach its own conclusion. The need to use technology to manage such a large and high-profile inquiry was equally great.

### Legal and technological challenge

The scale of the task was considerable. Documentation and evidence had been amassed by both the French judicial authorities

and the Metropolitan Police Service during two separate and lengthy investigations into different aspects of the circumstances leading to the deaths in question. In addition, the coroner had his own duty to investigate and collated significant additional documentation requiring disclosure. At the conclusion of the inquests process, this amounted to approximately 61,000 pages of material.

There were seven parties recognised as ‘interested persons’, mostly represented by extensive legal teams comprising both solicitors and counsel. There was also a need to make sure they were kept up to date quickly and comprehensively.

In addition, many witnesses were located abroad and the coroner needed to secure evidence from across the globe, while keeping costs as low as possible and navigating several time zones to put evidence before the jury during a normal court day in London.

All this took place in the context of international media interest and an understandable desire on behalf of the coroner and all interested persons to bring proceedings to a conclusion within a reasonable length of time so as not to interfere unduly with the lives of the randomly-selected members of the public who formed the jury.

Before the coroner commenced his opening speech, the inquests secretariat had had to source and secure reliable technology to address the following issues:

- how best to secure and disclose substantial documentary disclosure;
- how to obtain oral evidence on time and to budget from seven different time zones;
- how to allow the public and press access to proceedings, to ensure the process was open and transparent; and
- how to achieve these objectives while balancing the understandable sensitivities of the families of the deceased and the glare of the media spotlight.

### Electronic database

At an early stage in preparing for the inquests’ hearing, the coroner decided to procure an electronic document management database for the use of his own team and those of the interested persons. His objective was to obtain a system that was secure but flexible; ideally it should be internet-based to permit remote access and avoid the need for lawyers working away from the office to carry hard copies of electronic documentation around with them. He wished to be able to make disclosure quickly and easily, and to obtain a system that was user-friendly.

After reviewing several systems, the coroner opted to purchase Lextranet v 5.0 supplied by Merrill Legal Solutions. The system worked well and provided all the functionality the coroner required, including full text document searching and a calendar which was used by the solicitor to the inquests to inform all authorised users about the scheduling of witnesses

and other key events. Given the unpredictability of timing evidence from witnesses based outside the jurisdiction, the latter proved a very valuable tool and a simple means of communicating up-to-date information to all legal teams simultaneously so that one might not have advantage over the other.

In total, 11,000 documents were loaded on to Lextranet and this, as well as calendar information, was made available to up to 31 users. It proved a valuable and popular resource.

There were some initial difficulties in obtaining authorisation from the coroner’s sponsoring department of state, The Ministry of Justice, to proceed to purchase the EDM. This caused delays in loading documentation on to the database initially and granting access to users. This stemmed from understandable concerns to ensure the integrity and security of any documentation held on the system, given the confidential and sensitive nature of much of the material it would contain – all in what was soon to become the context over concerns more generally about government loss of personal data stored electronically. The coroner’s team was equally concerned about this aspect, to ensure that personal and sometimes distressing and unnecessary information did not inadvertently enter the public domain (albeit being disclosed to all interested persons on the basis of strict undertakings as to confidentiality). The requirements of data protection legislation also needed to be taken into account in specifying the system set-up.

The security measures employed to address the Ministry’s concerns included encryption of data whilst being processed and transferred, secure transfer of files to the database hosting location, data export and processing agreements to address data protection and other legal issues, and passwords being set to meet Ministry of Justice requirements.

One consequence of the care taken to ensure the security of the system was that time was lost and coding of the documents necessarily became a little rushed. Documents had multiple references after being used in a variety of different legal proceedings and one lesson learned was the need to give clearer and fuller instructions to those conducting coding in the future. This would facilitate more user-friendly and consistent document descriptions being added to the system and result in easier and more reliable searching.

Documents continued to be uploaded on to the EDM throughout the inquests. This enabled the coroner to comply with his ongoing obligation to provide disclosure without the need for distribution of multiple paper copies and bundles.

### Video-conferencing

In total, the jury heard evidence from 268 witnesses over 89 sitting days. Seventy-five witnesses were based in France and others gave evidence from Germany, New Zealand, Australia, Nigeria, Kenya, Brazil and California. This would have proved either impossible or much more costly without the use of video-conferencing technology.

Save where a witness’ evidence was of critical importance or where a witness refused to give evidence from their home state, witnesses based abroad were permitted to give evidence by video link. The inquests secretariat employed the services of

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RTS Communications to equip Court 73 of the Royal Courts of Justice with sufficient cameras and screens to facilitate this.

The French authorities made video-conferencing facilities (including technical support) at the Palais de Justice in Paris available to the coroner; 74 witnesses gave evidence from this facility. Video-conferencing facilities in other cities around the world were sourced from a variety of commercial providers, including Merrill Corporation, according to the particular location of each witness.

Whenever a new location was identified, RTS made contact with the supplier concerned to establish and test the link in question. The result was that proceedings maintained their pace and there were very few delays due to technical problems. The coroner was grateful to the French authorities for making available the video-conferencing facilities of its Court of Appeal for substantial blocks of time; this proved the only legally permissible way for the oral evidence of summonsed witnesses to be obtained, but must have caused considerable inconvenience and disruption to the French judicial timetable.

However, by and large, the picture and sound quality of this indispensable technology proved to be better when sourced through commercial providers. For any future proceedings requiring substantial quantities of evidence from France, it would be worthwhile for those responsible for running the courtroom technology in England to take additional time to see if any improvements could be made to systems at the French end.

### Transparency of access

Coronial proceedings take part, save in exceptional cases, in public. The coroner anticipated there would be substantial interest from the media and the public, and was anxious to provide the best possible access to proceedings. Though the largest modern courtroom at the Royal Courts of Justice, Court 73 could only accommodate 40 to 50 people in the public gallery when configured to house the jury and all interested persons and their legal teams. The coroner, therefore, decided to commission an annexe to provide additional capacity for press and public to watch proceedings.

The annexe comprised a semi-permanent structure erected in the main quadrangle of the Royal Courts of Justice. It was kitted out with comfortable seating, heating and air conditioning. RTS supplied and fitted a number of large screens on which proceedings were displayed. The annexe was designated an

extension of the court, to which rules of court behaviour and conduct applied and so the prohibition contained in the Contempt of Court Act on broadcasting proceedings did not apply to their transmission to the annexe, situated as it was within the confines of the court building.

Transmission of proceedings to the annexe worked well; in fact in many ways it provided a much clearer and intimate way of monitoring proceedings than sitting in the public gallery in Court 73 itself. The technology also provided a simple and easy method of preserving the anonymity of serving and former officers of the Secret Intelligence Service (or ‘MI6’). This group of witnesses gave evidence in person to the jury and legal teams, but the public were excluded from Court 73 itself to preserve the confidentiality of these officers’ identities. The coroner was keen, however, to permit the public to follow this evidence and so it was transmitted in audio form only to the court annexe.

These arrangements worked well, greatly assisted by technicians from RTS operating cameras and sound to ensure proceedings transmitted to the annexe were focused on whoever was speaking, be it coroner, counsel or witness.

### Court record

The coroner used the LiveNote transcription service from Merrill to ensure that an accurate and timely record of proceedings was made. The live text was displayed to the legal teams and the jury on flat screens placed on their desks in court, and to the press and public through large, flat screens displayed on the walls of the courtroom and annexe. This proved not only invaluable to the legal teams keeping up to date and researching proceedings, but to the press and public who were able more easily to note a witness’ particular words by following the text on screen.

To facilitate greater access and transparency to proceedings, the Judicial Communications Office (JCO) established a website (see [www.scottbaker-inquests.gov.uk](http://www.scottbaker-inquests.gov.uk)), which was used to display the transcripts of all proceedings taking place before the jury within two hours of the close of both morning and afternoon sessions.

Any documentary evidence shown to the jury was also displayed in court using Merrill’s Trial Director software. This proved an effective and reliable way of adducing such evidence in court in a manner that also allowed the press and public to see this evidence. Any such documents were handed after each court session to the JCO’s web team and added to the website after being produced in court.

### Conclusion

The use of the EDM, video-conferencing, annexe website and courtroom technology assisted the coroner greatly in bringing proceedings to a conclusion. Without them, it is likely that proceedings would have been more protracted, and more expensive. It would also have been harder to secure proceedings that were so open and transparent. <sup>17</sup>

*Martin Smith is a partner at Field Fisher Waterhouse, solicitors to the inquests.*