

**R. v. DENIZ JAFFER AND JAMIE LEWIS.**

**SENTENCING REMARKS**

1. On 2<sup>nd</sup> November 2021 you pleaded guilty to misconduct in public office. Sentence was adjourned for the preparation of pre-sentence reports. I have those reports and must now sentence you.
2. On 5<sup>th</sup> June 2020 Bibaa Henry had arranged a socially distanced outdoor birthday party and picnic in Fryent Country Park for friends and family. Those attending included Nicole Smallman. Celebrations got under way from about 7:30pm with guests leaving the park from about 11pm onwards. At just after 1am on what was by then 6<sup>th</sup> June, Nicole sent a text to her boyfriend to say she was dancing in a field. At some point after that message both women were repeatedly stabbed and brutally murdered. Danyal Hussein was convicted of their murders and sentenced to custody for life with a minimum term of 35 years.
3. The bodies of Bibaa and Nicole were found on 7<sup>th</sup> June 2020. When they did not return home after the party, friends returned to the park to look for them. They found Nicole's sunglasses, a bloodstained knife and then the bodies of the Bibaa and Nicole lying intertwined in a hedgerow on the ground. Nicole was wearing a brown jacket. Her upper clothing was

pushed up exposing her midriff where multiple stab wounds could be seen. Bibaa was wearing black leggings and black and white trainers. Her upper clothing was pulled up covering her head and exposing her stomach. There were obvious friction burns to her upper back.

4. The area where the bodies were found was some 5 metres deep and there were trees running either side of the area that hid them. There was a path that intersected the wooded strip from which the deceased could be made out, but they were not readily visible.
5. A police investigation got under way. To preserve the scene, and to allow for a thorough forensic examination, cordons were established. Jaffer and Lewis you were assigned, along with other officers, the task of guarding the scene overnight. For obvious reasons it was vital to prevent the scene being contaminated by wild animals or anything else. A key part of your duty was to remain at your allotted posts to ensure the integrity of the scene. As you were expected to remain at your posts, you were not wearing ‘full barrier’ forensic clothing. You were made aware of the general location of the bodies, but you were not shown the bodies themselves, and there was no reason for either of you to leave the posts allocated to you, or to enter the hedgerow area.
6. It was from 3:30am onwards that you were at the site and on the inner cordon at the point closest to the two bodies. Whilst there another more junior officer, PC Asprogenis, saw the two of you walking backwards and forwards, and so leaving your posts, to talk to each other. About 30 minutes later PC Asprogenis was approached by you. You both spoke to her and told her that there were two bodies lying in a bush close to where you, Lewis, had been posted. When she asked if the bodies were covered, Lewis you said they were not. You then returned to your posts.

7. About 40 minutes later, Jaffer you again left your post and spoke to PC Asprogenis. As a result, she left her post and went to where Lewis you were stood. Once there, Lewis you shone your torch into the bush area to show PC Asprogenis the location of the bodies. She saw the back of one of the two women.
8. After she returned to her post she received a WhatsApp message from you Jaffer which had 4 photographs of the two women in situ. One of those images had the face of Lewis superimposed on it in a ‘selfie’ style image. PC Asprogenis deleted the images sent to her.
9. Between 5am and 6am you took a refreshment break with two other officers. During the break Jaffer you showed an image from your phone of the two women lying in the hedgerow. Later you showed one of the images to a female probationary officer at Forest Gate Police Station. It transpires that you were the mentor allocated to that probationary officer. She did not think it appropriate to show such images and was shocked and disgusted. Lewis you also showed your phone with an image of the crime scene to another female officer.
10. On 19<sup>th</sup> June 2020 the Independent Office for Police Conduct [IOPC] was alerted to what had happened. Three days later they spoke to you Lewis, and you were arrested. Following the handing over by you of your phone and the interview after arrest, Jaffer you were also arrested. Your phone was seized and you too were interviewed.
11. Analysis of your phones shows that Jaffer you took 4 images and Lewis that you took 2 of the scene. Lewis you also made a selfie style image.

12. Jaffer you were a member of a ‘WhatsApp’ group named “*covid c\*\*\*s*” and there were 10 members of that group including you. The others in that group were not police officers. Jaffer and Lewis you were both members of a WhatsApp group called the “*A Team*”. The group had some 41 members from the Metropolitan police.
13. On your phone Lewis there are images taken from 04:36 onwards. One is a blurred photograph with the bodies discernible. Another, taken at 05:10 shows the bodies of the two deceased lying intertwined with Ms Henry’s exposed back to the camera. You also took a screenshot of your own photograph. You created an image on your phone in which you superimposed your face in a selfie pose in front of the bodies of the two women. This was created at 04:41. Jaffer you took images that are sent to Lewis at 04:39 and then at 05:21. They include images with the bodies identifiable.
14. The messages start from 03:46 and go through to 09:07. The messages you both put on the two WhatsApp groups are utterly distasteful and show a complete lack of showing any dignity to people in death. In the messages Lewis you refer to living the “*Wembley dream*”. Both of you refer to the deceased as “*two birds*” adding in about them being full of stab wounds. Lewis you refer to being “*sat next to two stabbed up dead women.*”
15. As the bodies of Bibaa and Nicole would not have been visible from the path adjacent to the large bush where they were found, nor would it have been possible to take the photographs you did from the positions you were instructed to hold on the cordon, you must have entered the bush itself and therefore your actions risked contamination of the scene. As part of this sentencing hearing I have looked at the photographs you took.

It is clear that some are taken from a place close to the bodies and probably well within 10 to 12 feet or so.

16. When interviewed, Lewis you denied going past the inner cordon at any point and denied doing anything to compromise the scene or the investigation. You also said you were 95% sure you had not taken any photos yourself. Later in interview you said you felt ashamed and disappointed in yourself. In a later prepared statement you said you had not entered the deposition site and had no knowledge or memory of taking photos.

17. Jaffer, in interview you admitted taking 4 photos of the two deceased women. You claimed to be concerned at the prospect of animals disturbing the scene and took these photos to protect yourself against any suggestion later that you had interfered with the scene. You admitted sending photos to Lewis and sending them by WhatsApp to two friends. You claimed this was done to show the dangers that were around. In a later prepared statement you said you had gone no closer than about 20 foot from the bodies.

18. At the trial of Hussein, Agreed Facts were placed before the jury making clear that you had taken and distributed images of the bodies and that you would have needed to leave your posts to take the photos.

Basis of plea.

19. The five elements to the alleged misconduct comprise: (a) without authorisation, entering a crime scene you had been assigned to protect; (b) sending information about your attendance at the scene to members of the public via WhatsApp; (c) taking photographs of the crime scene; (d)

showing a photograph taken at the crime scene to another officer; and (e) sending photographs taken at the crime scene to other officers and to members of the public via WhatsApp.

20. You have each pleaded guilty and supplied a written basis of plea. The core facts are agreed. Jaffer, you accept you did enter the crime scene. However, you say that you were never close enough to have touched or in any way interfere with either of the bodies. You estimate you were about 20 feet away but accept it could have been closer.

21. Lewis you say that you did not touch or otherwise disturb the bodies. You also say that you did not, at any point, enter what is referred to as the wooded strip. You do accept that you did not remain at your post. You go on to claim that, contrary to the witness statements, it was not made entirely clear to you that you had to remain in one place. You also accept that by your later actions, you risked the perception at the murder trial that the integrity of the crime scene could be called into question but that this risk did not occur to you on the night. I find it very hard to accept this last part of this basis of plea. Whilst you only had a limited period of service as a police officer, the primary reason for having a cordon would have been obvious to you.

### Reports.

22. I have pre-sentence reports on each of you. Jaffer you are 47 years of age – 48 at the end of this month. You joined the Metropolitan Police on 26<sup>th</sup> March 2018 and had just over 2 years' service at the date of this offence. You resigned with effect from 18<sup>th</sup> August 2021. At a tribunal hearing on 24<sup>th</sup> November 2021 you were dismissed following a finding

of gross misconduct and barred from ever policing again. Prior to joining the police you worked as a trader for some 20 years. The pre-sentence report sets out that joining the police was your lifelong dream. You are married with two teenage daughters and it is said that any sentence of immediate imprisonment will impact on them as well as you. I am grateful to Jessica Stephen for her detailed report. It is clear that both you Jaffer and Lewis, answered fully all of the questions posed to you for the report. In the report regret and remorse is expressed which is said to be genuine. You accept your behaviour was inexcusable. The report sets out the caring responsibilities you have.

23. Lewis you are now aged 33. You joined the Metropolitan Police on 9<sup>th</sup> September 2019 and had just over 9 months' service at the time. As with Jaffer, at a tribunal hearing on 24<sup>th</sup> November 2021 you too were dismissed following a finding of gross misconduct and barred from ever policing again. Before joining the Metropolitan Police you were in the British Transport Police Service [BTP], having joined them in July 2018. The pre-sentence report says that much of the work there was dealing with the aftermath of people being hit by trains and that all in all you had to deal with 44 such cases. You told the author of that report that you had to collect the remains of the bodies and it was a very traumatic experience. In September, 2019 you transferred to the Metropolitan Police as a member of the safeguarding and response team. You describe to the author a negative culture within the police and he said that you now realise that your experiences had made you "become somebody else" trying to fit in to this culture. You have two young children aged 5 and 7 and I note what is said about the older of the two. Although you are now divorced from the mother of your two children, I am told that you see them regularly and care for them for half the week. I note what

the report also says about your report of PTSD as a result of your earlier life and the experiences within the BTP. I am grateful to Peter Halsall for his detailed report and analysis. I note the observations made by Mr Ponte about the impact on your mental health and your desire that this is not raised to a higher level than as an observation.

Sentence.

24. The public expects, and rightly so, the highest of standards from police officers. I am sure there will be many thousands of officers in police forces in this country and abroad utterly horrified by your actions. It is appalling and inexplicable conduct. Sitting as a judge at this Court I see examples of the diligent and painstaking work of dedicated police officers carrying out complex homicide investigations to the very highest of standards, and other police officers who have acted with remarkable and distinguished bravery in responding to violent or terrorist attacks. Here, the two of you not only violated the police cordon with the effect that had on the scene and on the investigation, but then wholly disregarded the privacy of the two victims of horrific violence and their families for what can only have been some cheap thrill, kudos, a kick or some form of bragging right by taking images and then passing them to others. Not only did you violate the privacy of the two women who had been killed, but you also have undermined the trust and faith in police officers the public should be able to expect at times such as these. It is clear that the two of you acted without any thought as to the effect on the two women, their families or the wider public interest.

25. Moving victim impact statements have been read from members of the family and the extended family – a number of whom worked for the



Metropolitan Police. It is very difficult if not impossible for anyone to comprehend what the family have gone through as a result of the murders and then the actions of the two of you here. As they say: *“No one expects their children to die before them but to have two out of three of your children to be murdered on the same night is just incomprehensible. You can’t begin to understand what it is to lose a child under those circumstances. As parents we are broken beyond words”*.

A little later they say:

*“What was revealed at that meeting with the IOPC and the then Borough Commander was to be a betrayal of such catastrophic proportion, words can’t convey? The very organisation, members of the Police force we expect will protect us, honour us and behave in a way that gives our deceased dignity. Jaffer and Lewis callously and without any regard for our dead girls’ bodies committed, to my mind, a sacrilegious act.*

26. I have been referred to a number of decisions as to sentence for misconduct in public office. I accept the facts of this case are different to those in the cases I have been referred to. One of the cases I have been referred to is R. v. Bohannan [2010] EWCA Crim 2261. There the Court of Appeal was dealing with sentence for misconduct by police officers of a different nature to that here. However, it seems to me that some of the principles identified, have some bearing in this case. Leveson LJ, having reviewed a number of previous cases involving police misusing access to computers, stated as follows:

*“None of these decisions are, of course, binding in the sense that they drive the decision in this case. They are, however, illustrative of a number of important principles. First, punishment and*

*deterrence are always important elements in these cases: not only must police officers be deterred from misconduct, but also the public must see that condign punishment will be visited on police officers who betray the trust reposed in them and do not live up to the high standards of the police service. Secondly, an incentive (usually money but it need not be) inevitably increases the seriousness of the offence. Third, misconduct, which encourages or permits criminals to behave in the belief that they will be kept informed of areas to avoid in connection with their criminal activities, or of those who might be informing on the police also increases its gravity..... Fourth, any misconduct that impacts on police operations moves the offence into a different category of gravity.*”

It is really the first and fourth of those principles that most apply here.

27. In his helpful sentencing note Mr Smith identifies a number of aggravating features in this case. I agree with the factors he has identified. They are:

- (i) the general breach of public trust which is particularly weighty in the case of police officers committing misconduct in the course of their duties as identified in *Bohannan*;
- (ii) the offending here takes place in the midst of an investigation into the double murder of two women, which caused a justified significant public outcry. It is almost impossible to conceive of a more serious piece of offending against the background of which these defendants committed their own criminal acts;

- (iii) the consequence of the offending. Whilst it cannot be shown that the integrity of the crime scene was in fact compromised, the offender responsible for the murders could suggest that it had been. In that way, the conduct here assisted the defendant Hussein in placing an unmeritorious defence to murder before a jury;
- (iv) the offending stripped Bibaa and Nicole of dignity in death. This factor is more weighty given that the two of you were charged with protecting their bodies;
- (v) the offending is not limited to the taking of photographs of the deceased, but to their dissemination as well. In the case of Jaffer, that dissemination was not only to police officers, but also to civilians (in respect of whom there could be less confidence against further dissemination). Both of you continued to show or disseminate the images after you had left the crime scene itself.

28. In terms of mitigating factors, you have both admitted matters from the earliest stage and there is no financial gain to you. In a helpful joint note Mr Saunders and Mr Ponte acknowledge the serious nature of the offending here. They set out the approach they submit should be taken to other previous cases of misconduct involving police officers. Reference is made in their note to s.57 of the Sentencing Act 2020 which sets out the purposes of sentencing where a court is dealing with those aged 18 and over. As that section makes clear, in this case the court must have regard to the following purposes of sentencing: (a) the punishment of offenders, (b) the reduction of crime (including its reduction by deterrence), (c) the reform and rehabilitation of offenders, (d) the protection of the public, and (e) the making of reparation by offenders to persons affected by their offences. They submit that despite the seriousness of the offences, an immediate sentence of imprisonment is

not required. I am specifically referred to the guidelines headed: *“Imposition of Community and Custodial Sentences.”* The guideline sets out four questions. Has the custody threshold been passed? Here, both Mr Saunders and Mr Ponte accepts it has been.

29. The second question is this: Is it unavoidable that a sentence of imprisonment be imposed? Then, thirdly, what is the shortest term commensurate with the seriousness of the offence? Fourthly, can the sentence be suspended? I have considered each of those questions with care and had regard to the submissions Mr Sanders and Mr Ponte have advanced with care and skill.

30. I have seen and read the many extensive character letters and references written on behalf of each of you. The letters come from family and close friends. Many of those who have written, have known you for many years. There are over 30 people who have written letters in relation to you Jaffer and a smaller number for you Lewis. I have read them all with care. Each author speaks of each of you in glowing terms and many of the qualities you each have. Many speak of the impact of the case this case has had on each of you, as well as the impact an immediate sentence will have on you and on others within each of your families. In your case Lewis, the mother of your two children speaks of the impact on them of this case and the potential outcomes. In your case too, Jaffer, I note what is said about the potential impact on immediate custody on your wife and father. I have in mind the medical material that I have been provided with in relation to you, your wife, father and daughter.

31. In mitigation Mr Saunders has set out a number of points both in the joint note on sentence, and in oral submissions today. He accepts the impact

this offending will have had on the families in addition to the grief they suffered as a consequence of the murders. Jaffer, on your behalf he sets out the apologies you have given for your appalling behaviour. It is submitted that wider publicity of the traumas was not your intention. Mr Saunders accepts the case passes the custody threshold but that it should be within the parameters whereby it can be suspended.

32.It is said that Jaffer you had only been out of probation for weeks when this offending took place. It is also submitted on your behalf that you took action and resigned from the police after interview. In terms of the contact with non-police people on the WhatsApp group, it is said that they are all people you knew well and trusted implicitly and did not believe anyone would further disseminate them. It is also submitted that the name of the group is not relevant to sentence. I make clear I do not aggravate the sentence because of that name.

33.In terms of the approach to sentence, Mr Saunders invites the court to draw back from immediate sentence based on the facts. He submits that there could have been more serious facts – going to newspapers or for financial gain. He makes clear on your behalf that loss of dignity in death was not your intention or that of Lewis. Mr Saunders invites the court to be careful not to double count as every case of misconduct will necessarily involve a breach of trust and so not to aggravate any sentence further. Mr Saunders invites the court to have regard to the delay between the events and sentence today.

34.Mr Ponte echoes the points that apply to you Lewis. He too invites this Court not to impose immediate custody. He accepts that the offending here was appalling, grotesque and outrageous as to taking the images and then disseminating images of the crime scene to others, but it needs to be

seen in context of the other dissemination that took place. As I indicated I do not intend to draw fine distinctions between the two of you. This conduct needs to be seen as a piece of conduct. He invites credit for pleas and also for the remorse that has been shown. As to deterrence, he submits that the very public nature of the case will act to that effect.

35. In my judgment the only appropriate sentence in this case is one of immediate imprisonment. I take into account in both your cases your hitherto previous good character, but that is of little if any weight in cases such as this. I accept that some remorse has been shown, and understand there will be others impacted by any sentence of immediate imprisonment in this case. In my judgment after a trial there would have been sentences on each of you of some 4 years' 6 months' imprisonment. Allowing for your admissions, pleas of guilty indicated from an early stage, that would be reduced to 3 years' imprisonment, and then making allowance for the remorse and personal mitigation advanced on behalf of each of you, the least sentence the court can impose in each case is one of 2 years' 9 months' imprisonment. You will each serve half of the sentences in custody and then released on licence for the remainder of the term. You must comply with the terms of that licence. At any stage it may be withdrawn and your return to custody ordered.

36. If the statutory surcharge applies to your cases, then the appropriate orders can be drawn up.

His Honour Judge Mark Lucraft QC  
Recorder of London,  
Central Criminal Court,  
London EC4M &EH  
December 6<sup>th</sup> 2021.