



JUDICIARY OF
ENGLAND AND WALES

In the matter of the murder of Brianna Ghey

R v X and Y

Manchester Crown Court

Mrs Justice Yip DBE

21st December 2023

Ruling on Reporting Restrictions

1. For reasons which will become apparent, I will refer to the defendants as X and Y. Yesterday afternoon, X and Y were convicted of the murder of Brianna Ghey. I adjourned sentence and directed that reports should be obtained. I have now listed the sentencing hearing for 2 February 2024.
2. Due to the age of the defendants, an order has been in place throughout the proceedings under section 45 of the Youth Justice and Criminal Evidence Act 1999 (“the Act”) restricting publication of any information that would be likely to identify them as the defendants in these proceedings. By letter dated 15th December 2023, a representative of ITV indicated an intention to contest the reporting restrictions if the defendants were convicted. I treat that letter as an application for an excepting direction pursuant to section 45(5) of the Act. Following the defendants’ conviction, other members of the press have joined in the application for the reporting restrictions prohibiting the identification of the defendants to be lifted.
3. The murder of Brianna was a shocking event. Brianna was only 16 years’ old at the date of her death. She was transgender and had a significant social media profile. Her killing attracted immediate interest and vigils were held for her at locations throughout the United Kingdom. As details of her murder emerged, the shock and the public interest increased. Brianna was murdered in a particularly brutal way. The two defendants are themselves children who were aged just 15 at the time of the offence. Messages passing between them point to a significant degree of planning.

Understandably, there has been widespread reporting of this case both in this country and abroad. Full and accurate reporting of the proceedings serves an important purpose in assisting public understanding.

4. Both defendants are now aged 16. They each have some vulnerabilities beyond their youth. X has traits of autism and ADHD. Y has been diagnosed as having autism and selective mutism. He currently speaks only to his mother. I received reports on the defendants' fitness to stand trial and for the purpose of considering special measures. In the course of considering this application, I have received further evidence. In relation to X, I have:

- (i) A letter dated 19th December 2023 from Cheshire Youth Justice Service;
- (ii) A letter emailed on 19th December 2023 from the Director of Children's Social Care at Warrington Borough Council.

In relation to Y, I have:

- (i) A letter dated 20th December 2023 from the Director of Children's Services at Wigan Council.
- (ii) An email dated 20th December 2023 from Dr Louise Bowers, Forensic Psychologist.

5. I have also seen a short email from Rebecca Howarth, Y's youth offending team worker. That email contains information relating to Y's family which has been shared on a confidential basis. My understanding is that the information within that communication may not yet have been shared with Y. For today's purposes, I am prepared to treat it as confidential. In doing so, I make it clear that I have not relied upon this piece of evidence in reaching my decision. Had I done so, I am not persuaded that confidentiality could be maintained. I believe that those working with X will need to be aware that this information is likely to emerge into the public domain in due course and to manage that situation.
6. In relation to both X and Y, the professionals working with them urge me not to lift the reporting restrictions. The letter from Cheshire Youth Justice Services concerning X suggests that the impact of lifting restrictions and the reporting that will ensue will have ramifications for many years. It identifies concern about X's mental health and about her rehabilitation, if and when released as an adult. It also expresses concern about risk

to X while in a custodial setting and to her family, including adult siblings. The letter from Warrington Borough Council supports these concerns and makes it known that X's family have already received death threats. Concern is expressed that lifting restrictions will cause increased hostility to them, and to her.

7. The letter from Wigan Council in relation to Y raises concern for him and his family, now and in the long term. The email from Dr Bowers refers to the increased challenges experienced by those with autistic spectrum disorder within the prison system. Dr Bowers expresses concern for Y's mental health in the event that he becomes notorious and the focus of heightened attention.
8. I have been assisted by Mr Pat Hurst of the Press Association who has put forward representations on behalf of the press. As ever, he has adopted a responsible and helpful position. Representatives of the BBC have also addressed me on some practical considerations. I understand that all members of the press and the broadcasters present in court today support the lifting of restrictions and adopt the representations made to me. I also received a joint note from the defence and heard submissions from Counsel, Miss Holt on behalf of X and Mr Swift on behalf of Y. The prosecution have taken a neutral stance on this application but I am extremely grateful for the assistance provided to the court by Miss Heer KC and Miss Mottram. They supplied me with a note dated 20th December 2023 dealing with applications made by the media. They set out there the relevant legal principles, which are agreed by the defence.
9. Section 45(5) provides that the court may make an excepting direction if satisfied that the effect of reporting restrictions imposed under subsection (3) is to impose a substantial and unreasonable restriction on the reporting of proceedings and that it is in the public interest to relax that restriction. No excepting directions shall be given by reason only of the fact that proceedings have been determined in any way. Section 45(6) requires the court to have regard to the welfare of the defendants in determining this application. In considering whether lifting reporting restrictions is in the public interest, section 52 of the Act directs the court to have regard to the interest in the open reporting of crime, the welfare of the person in relation to whom the restrictions have been imposed and any views expressed on behalf of the person concerned.
10. I have had regard to the Judicial College Guide to Reporting Restrictions in the Criminal Courts published this year and to the relevant authorities, in particular to *R v*

Markham and Edwards [2017] EWCA Crim 739. Useful guidance is also to be found in *R(on the application of Y) v Aylesbury Crown Court* [2012] EWHC 1140 (Admin).

11. It is clear from the authorities that there is a strong presumption in favour of open justice. The onus is therefore on the defence to justify reporting restrictions. The court must be satisfied that, on the facts of the case, the welfare of the child outweighs the strong public interest in open justice. The mere fact of conviction does not in itself provide justification for lifting reporting restrictions. However, the overall picture has changed in light of the convictions and the inevitability now that both defendants will be incarcerated for a long time. The justification for reporting restrictions requires review in the context of that changed picture. As Sir Brian Leveson PQBD said in *R v Markham and Edwards* “the court must analyse the content of each right in the light of the particular circumstances of the case.” This involves a balancing exercise, balancing the interests of the public in the full reporting of criminal proceedings against the desirability of not causing harm to a child concerned with the proceedings.”
12. In considering that balance, I have given weight to the professional opinions I have in relation to the defendants. I recognise that they have additional vulnerabilities beyond their youth. There are concerns about the mental health of both defendants. However, the concerns identified to me do not focus on the short-term. Indeed, in relation to X the focus is more upon the longer term position, if and when she is released into the community as an adult. In Y’s case, concern is expressed about his transition from the supportive environment he is currently accommodated in and about managing his needs in the young adult estate. The impact on the families of X and Y is also relied upon.
13. It has to be recognised that the defendants will both reach adulthood in 2025. At that time, the section 45 order would expire in any event and restrictions would cease to apply. I recognise that interest in this case is at its highest now and that this will abate to some extent in the coming weeks and months. That counts both ways in the balancing exercise I must perform. On the one hand, viewed from the defendants’ perspective the reporting and commentary is likely to be somewhat less fervent by 2025. Their identification at that time might therefore have less of an impact for them. On the other hand, the public interest in the identities of the defendants is at its highest now, around the time of their conviction and sentence. The press accordingly have a

strong interest in being allowed to report fully, including identifying the defendants, now rather than in 2025.

14. The shock generated by Brianna's murder and the circumstances of it has spread well beyond the local community, across the nation and indeed internationally. The public will naturally wish to know the identities of the young people responsible as they seek to understand how children could do something so dreadful. Continuing restrictions inhibits full and informed debate and restricts the full reporting of the case.
15. While the interest in the case may abate in the coming weeks and months, I do not anticipate that the public interest in knowing the identity of Brianna's murderers would disappear altogether by 2025. Indeed, delaying the identification of the defendants until then would be likely to generate a new wave of reporting and commentary around that time. The defendants will inevitably remain in custody for a lengthy period, and the process of rehabilitation will continue well into adulthood. These are additional factors to be put into the balance in favour of publication.
16. I accept that revealing the defendants' identities will cause concern and distress to their families. The identity of the families must already be known within their local communities. I am aware that they have already been subject to threats and harassment. I well understand their fears that widespread reporting will generate further behaviour of that nature being directed towards them. However, the purpose of section 45 is not to protect family members of a convicted defendant. The distress likely to be caused to them by publication is in reality not significantly greater than it would be if the teenage defendants had just reached their majority, in which case restrictions could not be imposed. I am afraid that I think the risk of the families experiencing further threats and harassment will remain whether the defendants are named now or in 2025.
17. Yesterday afternoon, following the verdicts, Brianna's parents spoke eloquently and movingly outside court. Their comments have been broadcast. Brianna's mother, Esther Ghey, expressly called for empathy and compassion to be extended to the parents of the defendants. That showed remarkable fortitude and humanity. Those who have seen the defendants' parents in court over the last few weeks will recognise their suffering. Anyone who is tempted to direct vitriol or malice towards the defendants' families would do well to recognise that they would be acting against the express wishes of Brianna's bereaved mother. They might also question the part they are playing in

society in the context of a case in which dark thoughts and hateful messages became enacted in real life.

18. I recognise that within the defendants' wider families there are other children, some bearing the same surnames as the defendants, who will be impacted to some extent by identification of the defendants. I do have the welfare of other children in mind. However, I again note that relatives would be likely to be in the same position if the defendants had now been aged 18 when reporting restrictions would not apply and that their protection is not the purpose of section 45.
19. I am aware that the defendants have been identified online. Where breaches of the existing reporting restrictions have been brought to the authorities' attention, action has been taken. The police have sought the removal of offending posts. Fortunately, the vast majority of those contacted have complied, such that prosecution has not been thought necessary. One offender, apparently located outside the jurisdiction, has not done so. The fact that there have been breaches and that the defendants' identities might be discoverable does not provide a proper basis for removing the reporting restrictions. I do not include this as a factor in the balancing exercise I must conduct.
20. In the particular circumstances of this case, it seems to me that it is inevitable that the defendants' identities will become widely known and reported at some stage. The question for me is whether I should lift the reporting restrictions now or allow them to continue until they lapse by operation of law during 2025. Having considered all the circumstances, I am unable to conclude that there is a good reason to maintain reporting restrictions following the defendants' conviction and sentence. I consider that, there is a strong public interest in full and unrestricted reporting of what is plainly an exceptional case, at the time the proceedings are being concluded. Continuing the reporting restrictions until the defendants turn 18 would, in my view, represent a substantial and unreasonable restriction on the freedom of the press.
21. I do, however, recognise that there may be a need for some work to be done with the defendants and their families to prepare them for the consequences of the reporting that is likely to follow the lifting of restrictions. I am very conscious of the time of year and that tomorrow is the last working day before the Christmas break. The youth offending teams and social workers responsible for these defendants have provided a level of support during this trial above and beyond that usually expected. I acknowledge this is

likely to have led to additional pressures within their caseloads and that they are likely to have breaks planned over the holiday period. I consider that the welfare of the defendants is likely to be detrimentally affected if appropriate support is not put in place for them and for their families around the time that they are identified. Balanced against that, while the interest in reporting the defendants' identities is strong now immediately following conviction, it will remain so at the date of sentence.

22. I believe that the appropriate balance can be struck by making an excepting direction today but by imposing a stay upon that order until the date of sentence. The stay will have a dual purpose. First, if having considered my reasoning, those who represent the defendants consider that there are any grounds to appeal or seek a review of my decision, they would be able to take urgent steps to pursue such a course. If the defendants are identified today, any subsequent appeal or review would become worthless. Secondly, it will allow time for the professionals responsible for the defendants to prepare them for the consequences of identification and to address the concerns identified in the material before me. By making the order today, albeit subject to a stay until the date of sentence, the press know that they will be able to report fully, including identifying the defendants, at the time of the sentencing hearing. It also allows for arrangements to be made for the broadcasting of my sentencing remarks, when I will address the defendants by name. For those unfamiliar with the arrangements surrounding that process, filming is strictly limited to the judge alone and no other person present in court will be shown.
23. I therefore direct that the order under section 45 of the Youth Justice and Criminal Evidence Act 1999 shall be lifted, allowing the reporting of the defendants' identities. The effect of that direction shall be stayed until the time of the sentencing hearing. I shall address the lifting of the stay at the commencement of that hearing to give clarity as to the point at which the restrictions cease to apply. Until I announce in open court that the restrictions are lifted, they will continue to apply and any reporting that breaches them will be a contempt of court. However, this will not provide an opportunity for a second attempt to oppose the excepting direction and the defendants should be prepared for it to come into effect on that date.