

THE CHIEF CORONER
HHJ LUCRAFT QC

INQUESTS INTO THE DEATHS OF BUTT
REDOUANE AND ZAGHBA

SUBMISSIONS ON BEHALF OF THE METROPOLITAN
POLICE SERVICE (MPS) IN RELATION TO
CONCLUSIONS AND FINDINGS

INTRODUCTION

1. The MPS has had the opportunity to consider the submissions from CTI. As indicated at the close of evidence there is broad agreement as to how the jury ought to be directed. The MPS makes the following observations:
 - i. It is agreed that the jury should be directed to return short form conclusions of lawful killing.
 - ii. The proposal that the jury also draft short narrative conclusions for each of the terrorists is not resisted.
 - iii. The MPS notes the suggestion from CTI at [38] that *the Coroner may wish to point out in his summing-up and general directions on the evidence that there has been no evidence suggesting any basis for criticism of the officers who engaged with the attackers*. The MPS submit that this would be appropriate and a proposed draft direction is set out at [11] below. It is submitted that this must be a legal direction.

RELEVANT LEGAL PRINCIPLES

2. All conclusions in a coroner's inquiry are of course evidence based.
3. Where the coroner sits with a jury, his role includes that of operating as a "judicial filter" to prevent juries from reaching findings or conclusions which are not supported by the evidence. The level of proof required in inquests is commonly referred to as *Galbraith* plus. There must be sufficient evidence for a matter to be properly left to a jury **and** it must be safe for the Coroner to do so, see *R (Secretary of State for Justice) v. HM Deputy Coroner for the Eastern District of West Yorkshire* [2012] Inquest LR 76, [2012] EWHC 1634 (Admin), at [17]-[23], in which Haddon-Cave J explained that the "*extra layer of protection*" afforded by the second question "*makes sense in the context of a coronial inquiry where the process is inquisitorial rather than adversarial, the rights of interested parties to engage in the proceedings are necessarily curtailed and coronial verdicts are at large.*"

4. This applies as much to short form conclusions as it does where the conclusion is by way of narrative either instead of or in addition to the short form conclusion. This requirement is reflected in the Chief Coroner's Law Sheet 2 which explains that *Galbraith* plus evidence must be present before any conclusion can be left to a jury. The Chief Coroner's law sheet unsurprisingly reflects the approach taken by the High Court, see for example *Chief Constable of Devon & Cornwall Police v HM Coroner for Plymouth, Torbay & South Devon* [2013] EWHC 3729 (Admin), where Stuart Smith J said in the context of a questionnaire based narrative "verdict":

It was accepted by Mr Christopher Hough, who appears for Mrs Twomey, and Mr Kay, who appears for the insurers of Mr Wojciechowski, that if there was no evidence that a suicide risk assessment or procedure would or should be different from the procedures that were in place and implemented, there would be no basis for asking question 9. Ms Scott, who appeared for Mrs Wojciechowska, was not asked to confirm her agreement to this proposition but did not argue against it. For my part, although I am not aware of authority directly in point on the proposition, I am confident that its acceptance by Mr Hough and Mr Kay is correct. Procedure in Coroner's courts should be evidence based and there can be no justification for asking a Jury to make a finding for which there is no evidence. The harm that could ensue if juries are asked to speculate without any evidence to support their speculation is obvious. This is not in any way a criticism of the diligence with which a jury approaches its task: it is simply that, if there is no material upon the basis of which a jury can answer a question, asking them to do so presents them with an impossible task.

THE EVIDENCE RELATING TO THE FIREARMS OFFICERS

5. The evidence from the officers who fired their weapons or witnessed their colleagues firing has been to the same effect. Each has said that they fired as there was an immediate threat to life from the terrorists who were bearing down upon them (the COLP officers) or as they believed that the terrorists were about to activate what appeared to be improvised explosive devices which would have posed an immediate threat to the lives of the officers, their colleagues and a number of members of the public in the immediate vicinity (the MPS officers). The officers were not challenged on this evidence by CTI or any IP. There would be no proper basis to challenge this evidence. It is supported by the pathology, other expert evidence and the comprehensive video evidence. This evidence has therefore been accepted. The MPS respectfully agrees with the summary of evidence provided by CTI at [18] to [34].
6. The officers have also been supported by the evidence of the Chief Firearms Instructors from City of London Police (now retired) and the MPS. Both confirmed their expertise and that it is their role to be critical of police officers where appropriate. Both stated not only that all officers had acted in accordance with their training but that they had in fact surpassed what was expected of them. Again that evidence was not challenged nor was it capable of proper challenge.

SUBMISSIONS

7. In these inquests all three terrorists died from gunshot wounds. The Chief Coroner will direct the jurors that they must return lawful killing verdicts for obvious reasons and as explained in the submissions from CTI.
8. CTI have also proposed that the jury return a short narrative conclusion in relation to each of the deceased. Such a course is not resisted.
9. It is submitted, however, that the jury should be directed that this narrative should not be critical of the firearms officers and the reason for this should be explained to the jury. A possible direction is set out at [11] below.
10. For the reasons set out above, there is no evidential basis for a narrative which criticises the officers. Such a finding would be unlawful as it would not be supported by the evidence. It is apparent that the jury have approached their task diligently to date. Whilst it is extremely unlikely that the jury would produce a critical narrative in the face of the evidence part of the coroner's role is to safeguard against such an eventuality. Public confidence would not be served by conclusions being returned which are contrary to the evidence.

PROPOSED DIRECTION ON NARRATIVE

11. Whilst entirely a matter for the Chief Coroner it is hoped that the draft direction below might be of assistance:

You should not in your narrative criticise the actions of any of the police officers who fired at Butt, Redouane or Zaghba. That is because all of the officers provided justifications in their evidence for why they fired and these explanations were not challenged by anyone in the inquests. Furthermore you heard from the Chief Firearms Instructors from City of London Police and the Metropolitan Police Services that all of the officers acted in accordance with their training.

12. The Commissioner is grateful for the clear and careful directions which have been proposed by CTI to date.

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15.07.19