

**INQUESTS INTO THE DEATHS OF
KHURAM BUTT, RACHID REDOUANE AND YOUSSEF ZAGHBA**

**WRITTEN SUBMISSIONS OF COUNSEL TO THE INQUEST
ON DETERMINATIONS AND DIRECTIONS TO THE JURY**

Introduction

1. These Inquests have considered the circumstances of and background to the deaths of the three individuals who perpetrated the terrorist attack on London Bridge and Borough Market on 3 June 2017. It is now necessary for the Coroner to decide how to direct the jury and elicit their determinations. The purpose of these Submissions is to assist in that exercise. This document is being filed after the end of the witness evidence but without sight of the submissions of Interested Persons. Such submissions of others will be addressed as necessary in oral argument.

2. In outline, our proposals are as follows for each of the deceased:
 - (a) The determination for each should resolve the issue whether the use of lethal force by the armed officers involved in the engagement was lawful. In our submission, the killing of each of the attackers by the armed officers plainly was lawful. Any finding to the contrary would be unsafe, and an open conclusion would be inappropriate. In these circumstances, the jury should be directed to return a short-form conclusion of “lawful killing” for each of the deceased. That is the only appropriate short-form conclusion in each case, and is one which would resolve the central issue properly and in accordance with the evidence.

 - (b) The jury should be asked to draft a short narrative giving a fuller account of the means and circumstances of the deceased person’s death. They should be given guidance about the form and content of the narrative. In particular, they should be

given directions that it may address (i) the acts of the attackers immediately before the arrival of the armed officers, including their violent assault on Mr Filis; (ii) the arrival of the City of London Police (“CoLP”) armed officers in Stoney Street; (iii) the response of the attackers on seeing those officers; (iv) the movements and actions of the attackers and the officers during the initial engagement (including warning shouts by the officers and shots fired); (v) the arrival of further armed officers of the Metropolitan Police Service (“MPS”); (vi) the actions of CoLP and MPS officers in assessing the scene, identifying the apparent IEDs and covering the prone attackers with their firearms; and (vii) in relation to Butt and Redouane, occasions after the initial engagement on which the deceased person was fired upon and the reasons for further shots being fired.

Factual Background

3. On the evening of 3 June 2017, Khuram Butt, Rachid Redouane and Youssef Zaghba carried out a terrorist attack in the London Bridge and Borough Market area. As they drove south over the Bridge in a rented van from 22:06, the van mounted the east footway repeatedly, injuring many pedestrians and killing two. At 22:07, they crashed the van into railings outside the Barrowboy and Banker pub at the south side of the Bridge.
4. They quickly left the van and, armed with knives, began attacking people nearby. They descended to the courtyard of a restaurant, Boro Bistro, where they stabbed a number of people, inflicting fatal injuries on several. They then went back to street level (at 22:09) before moving south down Borough High Street and attacking further members of the public. Unarmed officers who confronted them were themselves assaulted and injured.
5. At 22:10, the attackers turned into Stoney Street (which borders Borough Market). They attacked people in the roadway and entered a number of bars as they moved north up the street. Between 22:13 and 22:14, they were in Black & Blue restaurant, where they set upon and injured three customers. After leaving, they moved back down Stoney Street. They made a brief foray into Borough Market, charging unarmed officers and members of the public whom they saw there. At 22:16, they were back in Stoney Street where they mounted an attack on Mr Filis, an unsuspecting bystander.
6. In response to initial emergency calls, a massive police operation had been mounted. Various armed response vehicles (“ARVs”) were quickly directed to the area. While on

route, they were informed by radio message at around 22:16 that the incident had been subject to an Operation Plato declaration, indicating that it was regarded as a marauding terrorist attack. As the attackers were assaulting Mr Filis, the first ARV arrived, containing CoLP firearms officers. The attackers charged the officers, who engaged and shot them. Further ARVs manned by MPS officers arrived in the minutes that followed.

7. The officers immediately saw that the prone attackers were wearing what appeared to be suicide vests. They withdrew to the limited available cover and continued training their weapons on the attackers. There were a number of occasions in the period from 22:23 to 22:31 when Redouane and Butt were seen to make movements and were shot again. As set out in detail below, the officers' accounts are that they fired because they feared the movements were being made to detonate explosive devices. Later, at shortly after 23:00, explosives officers arrived and examined the apparent suicide vests, concluding that they were fakes. At that point, it was apparent that the attackers were all dead.

The Law

Statutory Provisions and Legal Principles concerning Inquest Determinations

8. The statutory provisions and legal principles concerning determinations under the Coroners and Justice Act 2009 ("CJA") may be summarised as follows, so far as relevant:
 - (a) The primary purpose of an inquest is to ascertain the answers to four questions: who the deceased was; and how, when and where he/she came by his/her death: see section 5(1), CJA. The jury may not express an opinion on other matters: see section 5(3), CJA.
 - (b) At the end of the inquest, the jury must return a determination which answers those four questions (as well as making findings as to personal details of the deceased required for death registration): see section 10(1), CJA. The Record of Inquest form scheduled to the Coroners (Inquests) Rules 2013 must be used for recording the determination: see rule 34 of those Rules. A note to that form lists the familiar short-form conclusions which may be used in answering the question how the deceased person came to die (e.g. accident, natural causes, etc.).

- (c) The question “how” the deceased came by his/her death is usually the most significant of the four statutory questions. In most inquests, it is taken to mean “by what means” the deceased person died; a question focussing on the physical means of death: see *R v North Humberside Coroner, Ex Parte Jamieson* [1995] QB 1 at 24. The question has often been answered by the coroner or jury (i) choosing one of the short-form conclusions as the headline conclusion as to death in section 4 of the Record of Inquest form and (ii) briefly stating the circumstances of death in section 3. However, it has always been acceptable to replace a short-form conclusion with a brief narrative: See *Ex Parte Jamieson* at 24 (general conclusion (6)); *R (Longfield Care Homes) v Blackburn Coroner* [2004] EWHC 2467 (Admin).
- (d) Where the procedural obligation of the state to establish an independent investigation of a death is engaged under Article 2, ECHR, the statutory provisions are to be read down so that the “how” question has a broader meaning: by what means and in what circumstances the person died. In that form, the question encompasses a broader range of surrounding circumstances, as well as underlying and contributory factors. The coroner dealing with such a case should return or elicit from the jury conclusions which address the central issues. In practice, this may require an expanded form of narrative and one which is more judgmental. See: *R (Middleton) v West Somerset Coroner* [2004] 2 AC 182 at [35]-[38] (a decision now given statutory force by section 5(2), CJA).
- (e) The Article 2 procedural obligation is engaged in any case where death was due to deliberate use of lethal force by state agents: see *McCann v United Kingdom* (1996) 21 EHRR 97 at [161]; *R (Smith) v Oxfordshire Assistant Deputy Coroner* [2011] AC 1 at [210]; *R (Letts) v Lord Chancellor* [2015] 1 WLR 4497 at [72]. In such a case, the investigation must be capable of leading to a determination whether the force used was or was not justified: see *Jordan v UK* (2001) 37 EHRR 2 at [107].
- (f) There is a statutory prohibition on the determination in an inquest appearing to determine any question of criminal liability of a named person or any question of civil liability at all: see section 10(2), CJA. The statutory formula nevertheless

permits a coroner or jury in suitable cases returning the conclusion that death was due to an unlawful killing or a lawful killing.

- (g) In those inquests where a coroner sits with a jury, the coroner must make decisions and give directions as to what conclusions the jury may consider. In this respect, it is the responsibility of the coroner only to leave to the jury those conclusions they could properly return on the evidence. In this regard, a two-stage test is to be applied which has been dubbed “Galbraith plus”: (i) whether there is evidence on which the jury could properly reach the relevant conclusion; and (ii) whether it would be safe for the jury to reach that conclusion. If a conclusion has no basis in evidence or would not be safe, it is the duty of the coroner not to leave it to the jury. See: *R (Bennett) v HM Coroner for Inner South London* [2007] EWCA Civ 617 at [30]; *R (Secretary of State for Justice) v Deputy Coroner for Eastern District of West Yorkshire* [2012] EWHC 1634 (Admin) at [17]-[23]; Chief Coroner’s Law Sheet No. 2. The coroner should not leave a conclusion for which the basis is purely speculative: see *R (Chief Constable of Devon and Cornwall) v HM Coroner for Plymouth* [2013] EWHC 3729 (Admin).
- (h) In appropriate cases, a coroner may properly conclude that there is only one conclusion open on the evidence, in which case that proper conclusion will be directed: see *R v HM Coroner for West Berkshire, Ex Parte Thomas* (1991) JP 681 AT 697-698, Bingham LJ. The judgment in that case also makes the point that an open conclusion should only be left as an alternative if it could fairly be said by the jury that “the evidence did not fully or further disclose the means whereby the cause of death arose.”
- (i) In inquests where the Article 2 procedural obligation is engaged, there is no inconsistency between the requirement to conduct a Convention compliant investigation and the coroner’s duty in domestic law to withdraw from the jury any conclusions not supported by evidence. That is because the Convention only requires that the key issues be resolved by an independent judicial process and does not insist that they be resolved by the jury as primary fact-finders. See *Bubbins v UK* (2005) 41 EHRR 24 at [163]:
- “If an independent judicial officer such as a Coroner decides after an exhaustive public procedure that the evidence heard on all relevant issues clearly points to only one conclusion, and does so in the knowledge that

his decision may be subject to judicial review, it cannot be maintained that this decision impairs the effectiveness of the procedure.”

In that case, the coroner had directed a lawful killing verdict (see [94]-[95]). The ECtHR found that there had been no violation of the state’s procedural obligations under Article 2 (see [165]).

9. It should be noted that an inquest will very often cover matters which cannot ultimately feature in the determination. The scope of inquiry is a matter of broad judgment for the coroner conducting the inquest. Although he/she should conduct a sufficient inquiry to answer the statutory questions, the evidence will commonly cover a wider scope than is necessary for that purpose. See *R v Inner West London Coroner, Ex Parte Dallaglio* [1994] 4 All ER 139 at 155b and 164j. These principles apply across the board (including in Article 2 cases): see *McDonnell v HM Asst Coroner for West London* [2016] EWHC 3078 at [28]; *Coroner for the Birmingham Inquests (1974) v Hambleton* [2019] 1 WLR 3417 at [46]-[50].

Lawful Killing and Self-Defence: Relevant Principles

10. One of the recognised short-form conclusions is lawful killing. This conclusion means that death resulted from the use of lawful force. It is a positive finding that death resulted from an act which would otherwise amount to the crime of murder, manslaughter or infanticide but for the presence of a factor which justifies the act under the criminal law. See *R (Duggan) v North London Asst Deputy Coroner* [2016] 1 WLR 525 at [69]-[72] (upheld on appeal: [2017] 1 WLR 2199). One such justifying factor would be a defence that force was used lawfully in self-defence and/or in defence of others. As with most inquest conclusions, the standard of proof applied to a conclusion of lawful killing (and all constituent findings) is the balance of probabilities.
11. Self-defence is a common law defence to offences of violence, while defence of others is a defence recognised by section 3 of the Criminal Law Act 1967. Both defences are now governed by section 76 of the Criminal Justice and Immigration Act 2008 (“CJIA”), which codifies some earlier common law rules and adds further provisions. In summary, when deciding whether force is justified, a two-limb test must be applied:
 - (i) whether or not the person honestly believed that it was necessary for him/her to use force in defence of him-/herself or others (a subjective test); and

- (ii) if he/she did hold that honest belief, whether or not he/she used no more force than was reasonably necessary in the circumstances as he/she believed them to exist (an objective test).
12. When the Court applies the first limb of the above test, the reasonableness of the belief is only relevant to help determine whether the belief was in fact honestly held: *R v Gladstone Williams* (1984) 78 Cr App R 276 at 280-81. As regards the second limb, the law does not require a person in the heat of the moment to calibrate precisely the amount of force required (a principle confirmed by section 76(7)(a) of the CJIA). The use of graduated force in some circumstances may be simply unrealistic: see *R v Clegg* [1995] 1 AC 482 at 497-498. Another important feature of the test is that it does not require a person who anticipates a threat passively to await an attack. Circumstances may justify a pre-emptive attack. See: *Beckford v R* [1988] AC 130 at 144, Lord Griffiths.
 13. The legal test is the same whether the person seeking to raise the defence is a member of the public or an agent of the state (such as a soldier or armed police officer). The training and instructions given to firearms officers do not alter the substance of the legal test, although they may be considered by the coroner or jury in applying the test to the facts. See *Bennett* (CA) (cited above), at [15].
 14. The domestic law principles governing self-defence, as summarised above, have been found compliant with the ECHR: see *R (Bennett) v Inner South London Coroner* [2006] HRLR 707 (Collins J); *Da Silva v UK* (2016) 63 EHRR 12 at [244]-[256].

Narrative Conclusions

15. Over the years since the *Middleton* case, the Courts have provided the following relevant guidance on the approach of coroners to eliciting and returning narrative conclusions in inquests in which the Article 2 procedural obligation is engaged:
 - (a) The objective of the narrative conclusion is for the coroner or jury to express findings on the key factual issues in the case, which might go beyond the immediate physical means of death. In particular, they may deal with surrounding circumstances and contributory factors. Lord Bingham gave this further guidance in *Middleton* (at [36], in the context of a jury case):

“If the coroner invites either a narrative verdict or answers to questions, he may find it helpful to direct the jury with reference to some of the matters to which a sheriff will have regard in making his determination under section 6 of the Fatal Accidents and Sudden Deaths Inquiry (Scotland) Act 1976: where and when the death took place; the cause or causes of such death; the defects in the system which contributed to the death; and any other factors which are relevant to the circumstances of the death.”

He went on to say that interested persons could make submissions on the appropriate means by which a coroner could return, or elicit from a jury, conclusions on the key issues. However, he stressed that “the choice must be that of the coroner and his decision should not be disturbed by the courts unless strong grounds are shown.” In other words, a coroner has a considerable margin of judgment in deciding how to formulate or elicit a narrative conclusion.

- (b) On the facts of the *Middleton* case (a prison suicide case), the House (at [45]) suggested an appropriate wording for a narrative in that case: “The deceased took his own life, in part because the risk of his doing so was not recognised and appropriate precautions were not taken to prevent him doing so”. Lord Bingham explained (at [37]) that this embodied “a judgmental conclusion of a factual nature, directly relating to the circumstances of death”.
- (c) A narrative conclusion must not contravene the provisions of section 10(2), which (as noted above) prohibits any conclusion that appears to determine any question of criminal liability of a named person or any question of civil liability. See *Middleton* at [37].
- (d) The means of eliciting or stating appropriate conclusions on the key factual issues concerning means and circumstances of death will vary from case to case. In *R (P) v HM Coroner for Avon* [2009] EWCA Civ 1367 at [25]-[26], Maurice Kay LJ explained that the first task of a coroner is to identify the central issues, and the next is to devise a means for those issues to be resolved, which may be by a combination of (i) a choice of short-form conclusions and (ii) a supplementary narrative. See also *R (Bodycote HIP Ltd) v HM Coroner for Herefordshire* [2008] EWHC 164 Admin (at [23]), where Blake J found that, in the circumstances of the case before him, it might be appropriate to return a narrative either as well as, or as an alternative to, a short-form conclusion.

- (e) When addressing in a narrative conclusion whether a factor was causally relevant to death, the test is whether it more than minimally contributed to death: see *R (Tainton) v HM Senior Coroner for Preston and West Lancashire* [2016] 4 WLR 157 at [41]; *R (Chidlow) v Coroner* [2019] EWHC 581 (Admin) at [37].
- (f) Any narrative conclusion must be limited to matters relevant to the death(s) under investigation. Where an event or circumstance may have caused or contributed to the death(s) but cannot be proved probably to have done, the coroner has a power to return or elicit conclusions about that event or circumstance: see *R (Lewis) v Mid and North Shropshire Coroner* [2010] 1 WLR 1836; *R (Le Page) v HM Asst. Deputy Coroner for Inner South London* [2012] EWHC 1485 Admin; *R (Tainton) v HM Senior Coroner for Preston and West Lancashire* [2016] 4 WLR 157.
- (g) A narrative conclusion may also express conclusions on matters properly featuring in the circumstances of death and state that they were not causative of death. This was determined recently in *R (Worthington) v HM Senior Coroner for Cumbria* [2018] EWHC 3386 (Admin). In that case, it was held that the coroner had been entitled to state in his determination that the deceased child had suffered abuse shortly before death and that it had not been causative of death: see [43]-[52].
- (h) A narrative conclusion ought not to be too long or complicated.
- (i) In *Coroner for the Birmingham Inquests (1974) v Hambleton* (cited above) the Court of Appeal stressed (at [18]) that a finding of a failure by the authorities to act appropriately would be made by means of a “brief factual conclusion” similar to the short conclusion suggested in *Middleton* itself.
- (ii) In *Clayton v South Yorkshire Coroner* [2005] EWHC 1196 Admin at [31], the Court doubted the appropriateness of a three-page questionnaire put before it, apparently on the basis that it was disproportionate or overly complex.
- (ii) *R (de Menezes) v Assistant Deputy Coroner for Inner South London* [2008] EWHC 3356 (Admin) involved a challenge to decisions of the coroner hearing the Stockwell shooting inquest regarding the drafting of a

“verdict questionnaire”. In rejecting the challenge, Silber J said (at [26]-[27]) that the coroner had been justified in taking an approach designed to minimise the risk of confusion or undue complexity in the conclusion.

Short-Form Conclusion: Lawful Killing

16. The determinations in these Inquests should resolve the issue whether each of the deceased was lawfully killed. First, it is on any view a central issue in the case and one which can be resolved by the conclusions available to a coroner’s jury. Secondly, case law indicates that this issue ought to be resolved by an Article 2 investigation where agents of the state have deliberately used lethal force. Thirdly, the issue is one which plainly can be resolved on the evidence as it stands, since the Court has received very substantial evidence about the circumstances in which the fatal shots were fired (including evidence from all the officers who fired, from other officers and from bystanders, as well as video evidence and photographs from multiple sources). The Court has also heard evidence about the officers’ training and assessments of their actions by the Chief Firearms Instructors of both relevant forces.

17. On all the evidence, the only safe conclusion in respect of each of the three attackers is that he was lawfully killed. Because it is not possible to determine exactly which shot was fatal for each of them, it is necessary to examine the use of force by the officers at every stage of the engagement.¹ Upon analysis, it is plain that each use of force (each act of firing on the attackers) was lawful and that any conclusion to the contrary would be unsafe.

The Initial Engagement at 22:16: BX46, BX45 and BX44

18. The three CoLP officers entered Stoney Street in their ARV, coming to a halt at approximately 22:16:42. The officers exited the vehicle over the next three seconds. The attackers, who had been assaulting Antonio Filis immediately before, began running at the officers. Khuram Butt was first to launch himself at BX46, moving forward at speed and with his knife raised. BX46 issued a challenge, which had no effect, and backed away to maintain a reactionary gap before he fired at Butt (at 22:16:50). BX44 also fired at Butt at this stage. Meanwhile, both Rachid Redouane and Youssef Zaghba ran at BX45 and BX44. Those officers also issued challenges, without apparent effect. They

¹ See the evidence of Dr Cary at TX/9/10-12 (Zaghba) and 30-31 (Redouane) and the evidence of Dr Poole at TX/9/46-47.

fired when the attackers were close to them, wielding their knives (shots timed at 22:16:51-52).

19. The following features of the officers' accounts are significant:

- (a) BX46 recalled seeing that Butt was armed with a large knife and remembered issuing an immediate challenge. Butt responded by moving towards him at speed, his knife held in a raised position. BX46 issued further warning shouts and backed away, but the attacker kept coming forward. During that initial engagement, the officer recalled seeing Butt's apparent suicide belt. He fired in fear of his life.² The footage from multiple sources confirms his account of backing away during the engagement (see the image at DC7181/290), as does the sequence of Mr Farina's photographs at PH3886 to PH3896.
- (b) BX44 said that he had got out of the rear offside door of the ARV and seen the three attackers coming forward, brandishing knives and "closing down" himself and his colleagues. His immediate concern was with Butt, whom he saw closing down BX46. It was apparent to him that the attackers wanted to kill him and his colleagues. BX44 "tracked" Butt as he moved across the field of vision towards BX46, and fired as Butt reached within a very short distance of BX46. BX44 then recalled turning his focus to the other two attackers, firing first at Redouane (who was charging BX45) and finally at Zaghba. The latter was on top of BX44 when he fired, such that BX44 fell backwards and fired the last shots between his legs.³ Again, the CCTV footage bears out the account of BX44 tracking Butt with his firearm and then turning to the other attackers, falling in the course of the engagement (see for example the image at DC0001/16).
- (c) BX45 said that, while getting out of the driver's door of the ARV, he had seen two men running towards him. They seemed very close indeed. Both had knives in their hands and were wearing what appeared to be IEDs. He recalled shouting a verbal challenge, despite which the men kept running towards him. He thought that he would be stabbed or the IED would explode, so he raised his firearm and

² See BX46's evidence at TX/3/18-23.

³ See BX44's evidence at TX/3/58-64.

fired on the man approaching (probably Redouane).⁴ The speed and urgency with which he got out of the vehicle are apparent from the fact that he did not apply the handbrake. The footage shows that Redouane reached a point very close to him and may have reached him if he had not had to sidestep away from the oncoming ARV: again, see the image at DC0001/16.

20. It cannot be doubted that each of the officers honestly believed that it was necessary to use force in defence of himself and others. They had been informed by radio that this was an Operation Plato incident, meaning that those in the control room had deemed it a marauding terrorist attack. They knew from training and from the recent experience of attacks that terrorists in such incidents would not hesitate to kill officers and members of the public. As soon as the officers emerged from their ARV, they saw the three attackers bearing down upon them, wielding knives and not responding to clear oral commands. The other officers at the scene were in no doubt that the armed officers had no choice but to fire.⁵
21. Equally, it is unquestionable that the level of force was no greater than was reasonably necessary in the circumstances as the officers (correctly) perceived them to be. The attackers were on a rampage in which they had already inflicted fatal injuries on eight people and serious injuries on 48 more. Based on the Plato declaration and their own understanding of the situation, the officers rightly understood that only the use of firearms would be effective to stop the men. If not stopped, the attackers would have posed a clear threat to all three officers and to the many members of the public in the area. The officers attempted to stop the men with oral commands, which were ignored. Engaging them hand-to-hand would have risked death or serious injury to the officers involved and others in the area.⁶ It would not have been practicable to use Tasers in the circumstances and at the range involved.⁷
22. Operation Plato guidance instructs officers to locate the subjects, and to confront and neutralise the threat as soon as possible. Officers are trained to use their weapons in this situation to incapacitate the subject, usually by firing at the central body mass (or at the head if necessary to avoid detonating an IED). The actions of the ARV officers were

⁴ See BX45's evidence at TX/3/99-104.

⁵ See TX/2/60 (PC Andrews); TX/2/130-131 (PC Tchorzewski).

⁶ See TX/8/99 (Mr Brown, former CoLP Chief Firearms Instructor).

⁷ See TX/8/98 (Mr Brown).

therefore in accordance with their training and guidance, as explained by Mr Brown, former CoLP Chief Firearms Instructor.⁸

Shots Fired at Rachid Redouane at 22:23

23. In the minute after the first ARV officers on scene had fired their initial volleys and the three attackers had fallen, officers approaching the attackers saw that they were wearing apparent IED vests. They reacted by backing away, taking cover behind the MPS ARV which had just arrived in Stoney Street, while maintaining firearms cover over the suspects. They warned unarmed colleagues away from the suspects.
24. At 22:22, Redouane (lying on his right side with his back to most of the officers) began moving his feet. In the following seconds, he moved his left leg back and forth. Some seconds later, he made a more significant movement with his right arm. These movements are evident on CCTV, especially from the MPS ARV dashcam. At this point, BY28 and E59, two MPS officers who had arrived on the scene and were taking cover behind the ARV, fired at Redouane.⁹
25. The evidence of each of the officers makes clear that he believed that Redouane was wearing an IED vest and was moving in order to detonate the device. Each was aware that such an act could be fatal for all the officers in the area and for members of the public in the Wheatsheaf pub and other nearby buildings. The officers had been shouting to the prone attackers that they must stay still. When they fired, they did so because they considered it the only and necessary action to preserve the lives of all in the area.
 - (a) E59 said that he had seen Redouane appearing to move with his hand towards what looked like a strap attached to the apparent IED. He thought that this was an attempt to detonate and that everyone in the area would die. He shouted a warning, but with no effect. At that stage, he fired aimed shots towards Redouane's back.¹⁰
 - (b) BY28 saw Redouane bring his right arm around the back, where he could see an apparent "pull cord". Like E59, he believed that Redouane was attempting to

⁸ See Mr Brown's detailed assessment at TX/8/97-102.

⁹ For the officers' locations, see DC7248/17, DC7181/295 and DC0001/52. For the location of Redouane, see DC7181/306.

¹⁰ See TX/4/49-51.

detonate the device and that he posed an immediate threat to the lives of all the officers and members of the public in the area. He fired three aimed shots, using an EOTech sight, re-assessing after each shot.¹¹

26. It is telling that these two officers from separate perspectives (on different sides of the ARV) both saw Redouane's movements as a prelude to detonation and both fired at the same time. It is also important to note that these and other officers covering the attackers had not fired on them before that point, although aware that Redouane and Butt appeared alive and capable of movement.
27. Against that background, it is plain that each officer honestly believed that it was necessary to use force to defend himself and others from a threat, namely the potential devastating use of an IED. Each realised that he, his colleagues and people in nearby premises had poor protection (nothing like the 100m distance from an IED and the hard cover recommended in training). None of the officers doubted that the IEDs were real, and indeed the explosives disposal specialist (Mr Short) only satisfied himself that they were fake devices when he had actually removed them.¹²
28. It is also obvious that the force used was proportionate to the threat as it was reasonably understood. Only by firing on Redouane could the officers incapacitate him quickly and effectively enough to prevent him making the movements which might detonate an explosive device. They had tried verbal commands and could not have safely or effectively tackled him by hand. The Chief Firearms Instructor for the MPS, T/CI Sheridan, explained that the officers' actions were fully justifiable in accordance with training and proper firearms practice.¹³

Shots Fired at Khuram Butt at 22:23 and 22:28-22:29

29. At 22:23, just over 20 seconds after the shots fired at Redouane, Butt made distinct movements.¹⁴ In response, officers BX44 and BY5 fired on him from their location behind a pillar to the north (shot visible at DC7181/306).¹⁵ At the same time, officers AY14 and E122 fired on him from their location on the nearside of the MPS ARV.¹⁶ At

¹¹ See TX/5/23-28.

¹² See TX/7/26-27.

¹³ See TX/8/65-68.

¹⁴ This is most clearly visible on the ARV dashcam footage – for Butt's location, see still at DC7181/306.

¹⁵ For their location, see DC7248/19.

¹⁶ For their location, see DC7248/18 and DC0001/55.

22:28-29, Butt made further movements in response to which BX44 (who was observing through a magnified sight) fired on him again. The evidence given by all the officers was that, on each occasion, they were fearful that Butt was moving to detonate his apparent IED and they fired to incapacitate him.

- (a) BX44 said that he was monitoring Butt's chest through his magnified sight and saw Butt making an apparently deliberate movement with his hands towards the suicide vest. He believed Butt would activate the device, and took aimed shots at the upper torso area. He was aware of his colleagues to the south firing at the same time. Some minutes later, while other officers were about to evacuate the Wheatsheaf, he saw further movement from Butt and fired again.¹⁷ Footage suggests that BX44 fired on both occasions; at 22:23 and 22:28.
- (b) BY5 recalled Butt's body moving up; coming off the floor as if he was using his arms to raise his upper body. Although BY5 was shouting at him to keep still, Butt continued his movement. Believing that Butt was about to detonate a device with a potentially wide blast radius, BY5 fired aimed shots towards his torso.¹⁸
- (c) AY14 was covering Butt and continuously instructing him to stay down and not to move. At 22:23, he saw Butt appearing "to push himself up into a kind of half press-up up position". He believed that Butt was raising himself up to activate his device. Despite further warning shouts, the movement continued. AY14 then opened fire, taking individual shots at Butt's torso and head.¹⁹
- (d) E122 said that he too was covering Butt when he noticed Butt beginning to sit up. He believed that the device would be detonated at any second and feared for his life. He described the movement as one of "sitting up" and assessed the situation as one of "very high risk and extreme threat". In response, he fired a sequence of shots, assessing the situation quickly between each.²⁰

30. The movement made by Butt at 22:23 was seen by officers from different positions and caused them independently to make judgments that they needed to fire on him.

¹⁷ See his evidence at TX/3/75-81.

¹⁸ See his evidence at TX/4/21-29.

¹⁹ See the evidence of AY14 at TX/5/43-48.

²⁰ See his evidence at TX/5/64-67.

According to all the accounts, it was a clear and significant movement which suggested a determined effort by Butt to raise himself. In those circumstances, their account of being concerned that he was about to detonate the apparent device is entirely plausible. As with the shots fired at Redouane shortly before, the officers honestly believed that force had to be used to avert an immediate threat to their lives and those of the public nearby. The force used was clearly proportionate: indeed, it was the only safe option, as explained by T/CI Sheridan and Mr Brown.²¹

31. Similarly, the action of BX44 at 22:28-29 is well explained as a reaction to another apparently deliberate movement by Butt which the officer reasonably interpreted as a prelude to detonation. It is noteworthy that BX44 at this stage was aware of his colleagues preparing to evacuate the Wheatsheaf pub, near where Butt was lying. It is also significant that Butt made further movements very shortly afterwards, during the evacuation, which supports BX44's evidence that he was making distinctive movements around that time.

Final Shot Fired at Khuram Butt during Evacuation of the Wheatsheaf Pub

32. At 22:30:27, three officers (BX45, BX46 and BY5) crossed Stoney Street from their position of cover to evacuate the Wheatsheaf pub. This was a courageous act, as they were moving close to Butt, whom they believed to be wearing a bomb vest. It was also fully justified, both to remove members of the public from an apparently dangerous area and to get help to one or more people they knew to be injured inside. As BX45 held a ballistics shield and BX46 kept Butt covered with his carbine at close range (5-6 metres), BY5 began ushering people out of the pub. During this exercise, BX46 saw Butt move his head from the floor and he fired at Butt's head. The ARV dashcam footage suggests that that happened at 22:31:44.
33. In his evidence, BX46 described a movement by which Butt's head came up off the ground. He could only see Butt's left hand and was aware that there were many ways by which IEDs could be detonated. His immediate thought was that Butt was exercising real strength to push himself off the ground and could now detonate the device. He aimed at the head to prevent any action or reflex which might cause a detonation.²²

²¹ See TX/8/68-75, 107-109.

²² See TX/3/42-45.

34. This evidence provides a wholly credible account of BX46 seeing a vigorous movement and perceiving a real risk to himself, the other officers and the people being evacuated so close to him. There is indeed no proper basis for disputing his account. If one accepts it, the use of force was evidently justified and proportionate, since only a lethal shot could achieve the aim of stopping an explosive device being activated.²³

Supplementary Narrative

35. In our submission, it would be appropriate to ask the jury to prepare a short narrative for each of the deceased, to supplement the directed short-form conclusion of “lawful killing” and complete the determination as to how the person died. This will enable the jury to perform a proper function of determining how each person came by his death. For each one, they should be invited to compose a short paragraph setting out the means and circumstances of death.
36. We have considered whether the jury should be asked to answer particular questions (as opposed to composing a short paragraph in the way described above). Although we are open to submissions from others, we are not presently in favour of that course. We are not persuaded that there are particular and targeted factual questions which they must answer, given that they are not to be asked to resolve the issues arising under the two-part test for lawful use of force.
37. In our submission, the jury should be given legal directions on the narratives as follows:
- (a) For each of the attackers, they are to prepare a short narrative, consisting of up to a few paragraphs setting out the circumstances in which the person met his death and the means by which he died. Although there should be a separate narrative for each attacker, content may be repeated as appropriate between the narratives.
 - (b) In each case, the narrative may in particular address –
 - (i) the acts of the attackers immediately before the arrival of the armed officers, including their violent assault on Mr Filis;
 - (ii) the arrival of the CoLP armed officers in Stoney Street;
 - (iii) the response of the attackers on seeing those officers;

²³ See Mr Brown’s assessment at TX/8/109-110.

- (iv) the movements and actions of the attackers and the officers during the initial engagement (including warning shouts by the officers and shots fired);
- (v) the arrival of further armed officers of the MPS;
- (vi) the actions of CoLP and MPS officers in assessing the scene, identifying the apparent IEDs and covering the prone attackers with their firearms; and
- (vii) in relation to Butt and Redouane, occasions after the initial engagement on which the deceased person was fired upon and the reasons for further shots being fired.

(See Chief Coroner's Guidance No. 17 at [40] for confirmation that this form of direction may be an appropriate means of eliciting a narrative conclusion.)

- (c) The narrative written for each of the attackers should address only the means and circumstances of the person's death. It should not make any statement or comment on any other subject.
- (d) The jury should try to be brief and to the point. So far as possible, clear and simple language should be used in narratives of this kind.
- (e) The jury should avoid using words and phrases such as "crime / criminal", "illegal / unlawful", "negligence / negligent", "breach of duty", "duty of care", "careless", "reckless", "liability" or "guilt / guilty". However, the jury may use ordinary and non-technical language which expresses factual judgments. (See Chief Coroner's Guidance No. 17 at [52]-[53].)

It may be that Interested Persons will have further submissions on the directions to be given in order to elicit a permissible and legitimate form of narrative conclusion.

38. As well as giving those legal directions, 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.

Documents: Record of Inquest and Determination Sheet

39. To assist the jury, a Record of Inquest form should be provided to them for each of the deceased, with the individual's personal details and the medical cause of death (as provided by the pathologist) completed. Sections 3 and 4 should be noted with the entry: "See Determination Sheet attached".
40. Each Determination Sheet should be headed with the name of the deceased, and should state in a note at the top that it is to set out the conclusions of the jury as to by what means and in what circumstances the named person came by his death. It should also contain an entry, "Short-form conclusion: Lawful Killing". Beneath that conclusion, the jury should be asked to write their supplementary narrative. Once that has been written and checked, a fair copy can be typed up and the jury can be asked to sign each Record of Inquest with the printed Determination Sheet attached.

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