

THE CHIEF CORONER OF ENGLAND AND WALES

SITTING AT THE CENTRAL CRIMINAL COURT

THE INQUESTS INTO THE
DEATHS OF THE VICTIMS OF THE TERROR ATTACK ON
LONDON BRIDGE AND IN BOROUGH MARKET ON 3 JUNE 2017

SUBMISSIONS ON PREVENTION OF FUTURE DEATHS
PARENTS AND PARTNER OF XAVIER THOMAS

Introduction

1. These submissions are made on behalf of the parents and partner of Xavier Thomas. They were present throughout the inquests and paid close attention to the evidence. They acknowledge the good work performed by all relevant organisations to protect life against the threats posed by the likes of Butt, Redouanne and Zaghba. However, they do wish to see that further action is taken across a range of issues. It is hoped that the organisations identified below contemplate these submissions in the spirit in which they are intended, namely, to learn lessons and to improve. These submissions do not – in any way – seek to diminish the attackers’ responsibility for their callous brutality.

2. These submissions address 4 topics:-
 - (a) The Search for Xavier
 - (b) Bridge & Highway Security
 - (c) The Investigation of Khuram Butt
 - (d) Wider Public Protection

The proposed areas for a recommendation to prevent of future death are highlighted in bold.

3. The legal principles set out in paragraphs 65-71 of CTI's note dated 24 June 2019 are agreed.

The Record of Inquest

4. The Chief Coroner concluded that Xavier was unlawfully killed. The record states:-

On 3 June 2017, Xavier Thomas was visiting London. He had been walking south across London Bridge with his partner, Christine Delcros. They had reached a point about midway across the Bridge when a Renault van was driven deliberately towards them and other pedestrians on the pavement. This was part of a terrorist attack. Xavier was struck by the front offside of the van with significant impact. Christine was struck by the van as well. He was thrown over the balustrade of the Bridge into the River Thames below, falling from a height of at least 13 metres. Xavier died immediately or almost immediately upon entering the water. A search was carried out by the Coastguard and Metropolitan Police Service, the first boat arriving approximately seven minutes after Xavier entered the water. Xavier was probably not on the surface of the water during the search. Xavier's body was recovered from the River Thames on 6 June 2017. He was assessed as dead by a police officer.

Multiple warning signs about the extremist views and conduct of one attacker were known to a number of his close family members in the months and years before the attack. In the main these were not reported to the authorities.

One of the attackers was a Subject of Interest under active investigation by the Security Service at the time of attack and for around two years before it. He was subject to surveillance in varying degrees but was not the subject of live monitoring in the days immediately before the attack. The other attackers had not been identified before they carried out the attack together.

At the time of the attack described above, there was no form of physical protective security on London Bridge, despite the fact that it was a location which was particularly vulnerable to a terrorist attack using a vehicle as a weapon. There were weaknesses in systems for assessing the need for such measures on the bridge and implementing them

promptly. Absent such weaknesses, suitable hostile vehicle mitigation measures may have been present.

A **The Search for Xavier**

5. The parents and partner of Xavier acknowledge the Chief Coroner's conclusion that Xavier probably died immediately or almost immediately upon entering the water and the fact that he was probably not on the surface of the water at the time when the search for Xavier was being conducted. However, the evidence at the inquest indicated that there were areas for improvement in relation to the equipment available to the Marine Police Unit and in respect of the procedures in place for searching for persons who have entered the River Thames.
6. First, the infrared equipment on the Marine Police Unit had vessels was not utilised. PC Bultitude's evidence suggested that the existing equipment took time to warm up and was awkward to use. The clear sense of his evidence was that the existing equipment was not effective. Although – on the night – a helicopter was available which had (superior) infrared technology that will not always be available. **It is submitted that there the MPU ought to conduct a review its existing search technology to assess whether it is fit for purpose and whether improvements might be made. This review ought to include consideration of whether hand-held infra-red devices would be more effective.**
7. Second, on the night of the search no consideration given to the possibility that one of the two other officers on PC Bultitude's craft operate the infrared camera. **The technology review referred to above should also consider whether procedures for determining when infrared technology should be used and if so by whom.**
8. Third, there were some shortcomings in the information sharing between MPU and HM Coastguard on the night of the attack. Although HM Coastguard was co-ordinating the search for Xavier, he was unaware that MPU personnel were (understandably) involved in attempts to direct members of the public walking along the north and south embankments away from an area of danger. HM Coastguard ought to have been informed. He had a misleading impression of the actual resource available to him

because half of it was to a significant extent focussed on a different task. He ought to have had a clear understanding of what the MPU personnel were doing because it could have influenced a decision on whether to summon an alternative resource to join the search. **It is recommended that there should be a review of the procedures for information sharing during searches are being performed.**

9. Fourth, the decision to abandon the search for Xavier 47 minutes after it commenced at 11.02 was distressing to his parents and partner. Although the Chief Coroner has concluded that Xavier was not alive, the evidence also indicated that it is possible for a person to survive in the water for longer periods. **Consideration should be given for minimum search times so as to ensure that the chances of recovering casualties is maximised.**

Bridge Security

10. The parents and partner of Xavier consider that the absence of security on the bridge meant that an opportunity to protect Xavier's life was lost. The Chief Coroner recognised the weaknesses in the system for assessing the need for security measures and implementing them promptly. The parents and partner of Xavier invite the Coroner to consider recommendations in the following respects.
11. First, Sarah Nacey, the Deputy Director for Protect and Prepare in the Office for Security and Counter-Terrorism (OSCT) said that, with respect to protective security, "you need to make sure that you are dynamic and able to respond to events". She accepted that the tests for a prioritised Crowded Place are too rigid (or at the very least arguably so). It is acknowledged that certain work is ongoing with respect to the definition. **Nevertheless, it is submitted that there ought to be a specific recommendation by the Chief Coroner that OSCT consider the effectiveness of the definition of crowded places to avoid rigidity.**
12. Second, crowd density was (and presumably will remain) an important part of the determination of whether a location was a crowded place. The relevant density criteria were not met by either London Bridge or Westminster Bridge. **The review referred to above identified above, ought to ensure that the definition of crowded places permits**

crowded spaces and/or iconic locations (which do not necessarily meet the strict density criteria) to be treated as crowded places.

13. Third, during the course of the inquests it was suggested **that an (annual) independent third party review of the list of existing crowded places might be helpful.** That review could be conducted by a person with suitable experience of security measures and a sufficient understanding of the current security threat. Such a person would be well placed to identify possible shortcomings in the way in which guidance was being implemented. For example, such a person could identify categories of places which are being excluded (e.g. such as bridges in London).
14. Fourth, there is a need for clarity over who bears the responsibility for assessment over whether a location demands further counter-terrorism security measures. The Chief Coroner noted at paragraph 81 of his ruling on Article 2 that DAC D’Orsi expressed concern about the lack of a clear legal duty on those responsible for sites vulnerable to terrorist attack. He also stated “neither TfL nor the CoLC perceived there to be any duty on them to carry out any general assessment of highways for which they were responsible.” It is highly unlikely that they are alone. The Chief Coroner concluded that “in the absence of a clearer legal duty or at least clearer official guidance, I do not regard the views of TfL and CoLC as unreasonable.” This situation must be addressed urgently:-

- (a) Guidance should be issued to all highway authorities on the scope of their responsibility for assessing locations for which they are responsible. [Secretary of State/OSCT/Department for Transport]**
- (b) Guidance should be issued to Counter-Terrorism Security Advisers on the scope of Highway Authorities to assess locations [OSCT/NaCTSO/MPS/CoLP].**
- (c) Consideration should be given to specific statutory duty on highway authorities to consider counter-terrorism measures [SoS & DoT].**
- (d) The SoS should consider whether CTSA’s ought to have a power to compel duty holders (whether as highway authorities or otherwise) to implement counter-terrorism security measures [SoS].**

15. Fifth, when PS Hone made the Corporation of the City of London aware of the vulnerability of London Bridge, on 8 May 2017, the processes in place did not enable the implementation of temporary barriers to be considered¹. There was a widespread and erroneous misunderstanding that because deploying formal Hostile Vehicle Mitigation was a long term measure and the National Barrier Asset was only available in specific circumstances no other physical protection measures were available. As noted by CTI the processes of CoLP, TfL and the Corporation lacked the “dynamic” quality which Sarah Nacey said they required. It is submitted that those entities need to review their procedures so that swift action can be taken when necessary.

(a) Advice/training needs to be provided to CTSA's to ensure that they are aware of the full range of rapid response options to combat hostile vehicle attacks are known.

(b) OCST/NaCTSO should consider issuing guidance on rapid response options available.

(c) CoLP should review guidance issued to officers to ensure that e-mails of high importance relating to counter-terrorism security measures are considered promptly.

16. Sixth, it is of concern to the families that over 2 years after the attack the barriers in place on London's bridges to protect pedestrians from vehicle attack is 'temporary'. **The Coroner should issue a recommendation that permanent solutions are implemented as soon as practicable.** Finally, the two attacks on Westminster Bridge and London Bridge resulted in 3 victims being propelled over the balustrades of those bridges. The Coroner – following the Westminster inquests – invited TfL to conduct a review of the height of parapets and railings on bridges. It is submitted that that work should be expanded to **include consideration of netting on bridges as a means of preventing a person from falling into the River Thames.**

¹ It is also noteworthy that in the days prior to the attack, it is likely that important e-mails from PS Hone (whilst he was on paternity leave) about counter-terrorism security measures were not considered promptly.

The Investigation into Khuram Butt

17. The parents and partner of Xavier acknowledge the good work carried out by the security services and counter-terrorism police. They face a daunting challenge which cannot be underestimated. Nevertheless, the inquests exposed areas for potential improvement and areas of concern to Xavier's parents and partner.

18. First, both L and M acknowledged the frustration and upset caused by the fact that two individuals reported their concerns about Butt to the authorities (one in September 2015 by Usman Darr to the Anti-Terrorist Hotline and one directly to MI5 by an unidentified caller (in mid-2015)) and yet this information did not reach the teams investigating Butt within their own organisations. Nor was it shared with their partner organisation. The opportunity to consider and take follow-up action was lost.
 - a. **MI5 and CT Police should review their procedures to ensure that information of this nature is not lost and is directed to the relevant investigative team(s).**
 - b. **Consideration should be given to a centralised repository for information relevant to SOIs accessible by both agencies.**
 - c. **Consideration should be given to the co-location of investigative teams.**

19. Second, there is a concern that the approach to threat assessment is flawed. We heard about the rise of low-sophistication terror attacks in recent years. Butt was assessed – in a potential lone actor (PLA) assessment – to have a weak capability to carry out an attack, in September 2015. That assessment was ‘tentatively’ increased to a moderate capability in October 2016. It is arguable that it was not appropriate to assess Butt's capability in this way. The attacks at Westminster and London Bridge attack demonstrate how easily a person can access the tools to perpetrate an attack. Therefore, the relevance of ‘capability’ in forming a judgement as to the threat posed by an individual is questionable. **MI5 and CT Police should review the relevance of ‘capability’ in the threat assessment process in light of current attack methodologies.**

20. Third, the material which was discovered on Butt's electronic devices was extreme and, to a lay person, alarming. It suggested that Butt had a deep-seated interest in martyrdom. The thrust of the evidence of both M, L and DS Ager was that the material they

encountered on his devices was of a type which they see routinely. The parents and partner of Xavier are concerned that insufficient weight is attached to an SOI's routine accessing of extremist material. **MI5 and CT Policing should review the approach to the assessment of mindset material in making a threat assessment and consider whether it needs to be given greater weight.**

21. Fourth, determining whether an organisation is adequately resourced is a complex matter. Xavier's parents and partner are concerned that MI5/SO15 are not adequately resourced given the level of the threat which exists. They were concerned that (i) the investigation into Butt was suspended twice; (ii) the significance of the Butt's attendance at the gym was not identified, (iii) despite the fact that they were aware of intelligence which suggested that Butt was working at a school the Ad-Deen school was not identified (even though it was located less than 1 mile from Butt's home and had been set up by a person with historical extremist pedigree) and (iv) Butt's association with Redouanne and Zaghba was not established appreciated. Although they acknowledge the Chief Coroner concluded that the investigation was thorough it is submitted that **MI5 and SO15 should consider whether they have sufficient manpower to meet the current threat and make recommendations to the Home Secretary if they conclude that there is a shortfall.**

Wider Public Protection

22. Although Usman Daar reported Butt to the anti-terror hotline no other family member did so. They knew of extremism and his association with extremists (e.g. Anjem Choudhury). As citizens we all have a (moral) duty not to ignore the fact that a person we know harbours extreme views and/or associates with extremists and/or proscribed organisations. The parents and partner of Xavier consider the following action should be taken:-

- (a) **The Home Office/Police/MI5 should consider whether a [further] campaign is required to raise awareness of the Anti-Terror Hotline and to impress upon everyone their individual responsibility to report concerns even if they concern a family member.**

(b) The SoS should consider whether it ought to be an offence for an individual not to report a person to the authorities where the individual knows that a person is either a member of proscribed organisation or accessing extremist material produced by a proscribed organisation.

23. Finally, the parents and partner of Xavier were concerned that Butt (i) was able to obtain work on the public transport network and (ii) that he was able to hire a large vehicle despite the fact that he was a subject of interest.

(a) TFL ought to consider whether its systems for vetting candidates and in particular its online checks are adequate.

(b) SoS/MI5 to consider the viability of a scheme which requires the details of all applicants for jobs on the public transport network to be entered into a database of SOIs and closed SOIs. In that way MI5 would be made aware of any such job application and could consider disruption activity should be taken.

(c) SoS/MI5/British Vehicle Rental and Leasing Association to consider whether it is viable to have a mandatory scheme for all vehicle rentals (or large vehicle rentals) to be processed through a database which would alert the authorities if an SOI (or a closed SOI) was hiring such a vehicle.

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2 August 2019**