

**INQUESTS INTO THE DEATHS ARISING FROM
THE FISHMONGERS' HALL AND LONDON BRIDGE TERROR ATTACK**

INQUEST OF USMAN KHAN

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

Introduction

1. This Inquest concerns the death of Usman Khan following the Fishmongers' Hall and London Bridge terrorist attack on 29 November 2019. These submissions are intended to assist the Coroner in directing the jury and eliciting their determinations. By necessity, these submissions have been prepared prior to receiving any written submissions of Interested Persons. Any such submissions will be addressed instead in oral argument. We also recognise that these submissions are being circulated before the final day of evidence in the inquest, and we reserve our position on dealing with any such evidence in oral argument.

2. In our submission:
 - a. The central issue for this inquest to resolve is whether or not Usman Khan was lawfully killed in the armed confrontation which followed his attack; in other words, whether or not the officers who fired upon him acted in lawful defence of themselves and/or others. In our submission, he plainly was lawfully killed and any finding to the contrary would be unsafe. In these circumstances, where the evidence clearly justifies this conclusion and an open conclusion would be inappropriate, the jury should be directed to return a short-form conclusion of "lawful killing."

- b. In addition, we submit that the jury should be invited to compose a brief supplementary narrative which provides a fuller account of the means and circumstances of Usman Khan's death. They should be given guidance regarding the form and content of this narrative and directed that they may address the following topics in particular:
- i. A very brief account of Usman Khan's actions immediately prior to the arrival of armed police officers, including (for example) (a) that he had armed himself with knives and stabbed multiple people in Fishmongers' Hall and (b) that he had left the Hall and been pursued and tackled on London Bridge by attendees of the event and members of the public;
 - ii. The device being worn by Usman Khan and its resemblance to an improvised explosive device ("IED");
 - iii. The arrival of the ARV carrying the first three armed officers on the scene at 14:01:59;
 - iv. The actions of the first three armed officers and of Usman Khan during the initial phase of the armed response, including (a) any instructions given by those officers, (b) Usman Khan's movements, (c) the use of the taser by YX16, (d) the first two shots fired and (e) YX99's reasons for firing;
 - v. The actions of the armed police officers in the immediate aftermath to this first phase, including the arrival of further armed officers and their decisions in positioning themselves and providing cover;
 - vi. The conduct of the officers in assessing the threat posed and any commands they issued to Usman Khan;
 - vii. Usman Khan's actions and movements throughout the second phase of the armed response (i.e. from 14:03 to 14:12) and the way in which these were interpreted by the officers observing him; and
 - viii. The actions of the armed police officers between 14:10 and 14:11 in firing on Usman Khan multiple times and their reasons for firing at him.

Factual Background

3. On 29 November 2019, Usman Khan carried out a terrorist attack which resulted in the deaths of Saskia Jones and Jack Merritt. The attack commenced during an event held at Fishmongers' Hall to celebrate the five-year anniversary of the Learning Together programme, a national organisation associated with Cambridge University and dedicated

to the education of prisoners alongside university students. Usman Khan was an invited attendee to this event, having become involved with the organisation in November 2017 while serving a prison sentence for preparing for terrorist acts (contrary to section 5(1) of the Terrorism Act 2006). At the time of the event, he was subject to both licence conditions and statutory terrorism notification requirements.

4. On the morning of 29 November 2019, Usman Khan travelled from his residence in Stafford to London by train. He was met at Euston Station by two other attendees of the event, Simon Lamour and John Crilly, and travelled on the London Underground with them to Monument Station. He arrived at Fishmongers' Hall at 09:58.
5. During a break between sessions which commenced at around 13:30, Usman Khan entered the gentlemen's toilet on the ground floor. In a cubicle, he donned a motorcycle mask and gloves and taped an 8-inch kitchen knife to each glove and the gloves to his wrists. Around his waist, he wore equipment evidently designed to replicate the appearance of a suicide vest or person-borne improvised explosive device ("PBIED"), which he is believed to have constructed himself.
6. Jack Merritt, an employee of Cambridge University who worked for the Learning Together programme, entered the gentlemen's toilet and, at around 13:56-13:57, was attacked by Usman Khan. He suffered a number of serious stab wounds which would prove to be fatal.
7. Usman Khan left the gentlemen's toilet and moved into the cloakroom area. There he attacked Saskia Jones, who had attended the event as a supporter, having previously volunteered for the programme. She was stabbed in the neck and was also fatally wounded. From there, Usman Khan moved towards the principal staircase and attacked Stephanie Szczotko; then into the entrance hall, where he attacked Isobel Rowbotham. Both were seriously injured but survived.
8. A number of attendees and a member of staff at Fishmongers' Hall, Lukasz Koczocik, confronted Usman Khan. They equipped themselves with improvised weapons gathered from their immediate vicinity, including chairs, a fire extinguisher, a decorative pike and narwhal tusks seized from a wall display. Usman Khan then threatened a member of security staff and forced him to unlock the entrance doors so that he could leave the building.

9. At 14:00:46, Usman Khan left Fishmongers' Hall via the main public entrance located on King William Street. He was pursued by three attendees of the event: Steven Gallant, John Crilly, and Darryn Frost. Armed with a narwhal tusk and a fire extinguisher, the three caught up with Usman Khan on the north side of London Bridge and succeeded in wrestling him to the ground. Other members of the public also joined in the effort to restrain and disarm him.
10. The first emergency call about the incident was made to the police at 13:58:58, and a number of armed response vehicles ("ARVs") were assigned to the incident in the minutes that followed. At 14:01:59, the first ARV arrived on scene carrying three City of London Police ("CoLP") firearms officers. The officers (YX16, YX99 and WS5) approached and confronted Usman Khan, while urging those restraining him to move away. Two of the three officers (YX99 and WS5) quickly saw that Usman Khan was wearing what appeared to be a suicide vest. At 14:02:49, as the final person who had been holding Usman Khan down was pulled out of the way by WS5, YX16 discharged his taser at Usman Khan, striking him in the back. Almost simultaneously, Usman Khan moved forwards and YX99 fired two aimed shots at him from his primary weapon.
11. As is set out in detail below, the officers' accounts are that they discharged their weapons because they feared that Usman Khan presented an imminent danger to themselves and to the public. YX16 says that he discharged the taser fearing that Usman Khan would continue his assaults, while YX99 says that he fired in the belief that Usman Khan might detonate the apparent IED. The officers then withdrew a short distance, keeping their weapons trained on Usman Khan and continuing to direct the public away from the scene.
12. Further ARVs crewed by officers from the CoLP and the Metropolitan Police Service ("MPS") arrived in the minutes that followed. Armed officers took up positions on the steps of Fishmongers' Hall, behind the ARVs now parked on the northbound carriageway of King William Street and on the east pavement of London Bridge. A National Police Air Service ("NPAS") helicopter was diverted to the incident and provided live footage to the MPS Specialist Operations Room ("SOR"). This confirmed the accounts given by officers on the ground that Usman Khan was wearing what appeared to be a suicide vest. At 14:09:49, WA30, a Tactical Firearms Commander ("TFC") in the SOR, confirmed to the officers on the scene that the incident had been made subject to an Operation Plato

declaration, indicating that it was regarded as a marauding terrorist attack. This followed an Operation Plato declaration by the CoLP control room.

13. Despite the initial shots and the taser deployment, Usman Khan continued to move throughout the time from 14:03 to 14:10. He rolled from side to side, removed a number of objects from his jacket pockets and touched his chest and waist on several occasions. Meanwhile, armed officers were covering him and shouting at him to stay still and stay down. At 14:10:27, Usman Khan sat up abruptly and remained sitting for approximately 13 seconds. During this time, 10 shots were fired by three officers. He then fell back but continued to move and six further shots were fired. At 14:11:33 (after most of the shots had in fact been fired), the TFC gave authorisation for a critical shot. Two further shots were fired after that authorisation, the last at 14:11:41. As is set out in detail below, the officers' accounts are that they fired on Usman Khan because they feared that he was attempting or would attempt to detonate the apparent IED.
14. By 14:12:06, all discernible movement from Usman Khan had ceased. At 14:18:07 and 14:23:17, explosives detection dogs were used to provide an initial assessment as to the viability of the suspected device. Neither gave a positive indication. At 14:41:06, an explosives ordnance officer examined the vest and concluded that it was not viable. Usman Khan was then checked by paramedics and life was declared extinct at 15:07.

The Law

Statutory Provisions and Legal Principles concerning Determinations

15. So far as is relevant, the statutory provisions and legal principles concerning determinations may be summarised as follows:
 - a. The primary purpose of an inquest is to determine the answers to four factual questions: who the deceased was; and how, when and where he or she came by his or her death (section 5(1) of the Coroners and Justice Act 2009 ("CJA")).
 - b. Having heard the evidence, the jury must resolve these four questions and make findings in respect of the personal details required for the registration of the death (section 10(1), CJA). Neither the jury nor a coroner (if sitting alone) may express an opinion on other matters (section 5(3), CJA), save as regards the coroner's power to produce a Prevention of Future Deaths report.

- c. Under Rule 34 of the Coroners (Inquests) Rules 2013, these determinations and details are to be recorded on a Record of Inquest form (Form 2). The notes to this form detail a number of short-form conclusions. As established in *R (Maughan) v HM Senior Coroner for Oxfordshire* [2021] AC 454 at [97], the civil standard of proof is to be applied in respect of all inquest narrative conclusions.
- d. The question “how” the deceased came by his or her death is generally 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 immediate means of death. This question may be answered by a coroner or jury selecting a short-form conclusion and/or producing a short narrative of the means of death. See *R v North Humberside Coroner, Ex Parte Jamieson* [1995] QB 1 at 23-26.
- e. In this Inquest, the Coroner has ruled that the state’s procedural obligation to establish an independent investigation under Article 2 of the European Convention on Human Rights (“ECHR”) is engaged. This is because Usman Khan’s death arose from the deliberate use of lethal force by agents of the state (see *McCann v United Kingdom* (1996) 21 EHRR 97 at [161]; *R (Smith) v Oxfordshire Assistant Deputy Coroner* [2011] 1 AC 1 at [210]; *R (Letts) v Lord Chancellor* [2015] 1 WLR 4497 at [72]-[73]). In such a case, the Article 2 investigation must be capable of leading to a determination as regards whether or not the force used was justified (*Jordan v UK* (2003) 37 EHRR 2 at [107]).
- f. Where (as here) the Article 2 obligation is engaged in an inquest, the question of “how” the deceased came by his death is to be read as meaning “by what means and in what circumstances” the death occurred (rather than in the narrower sense established in *Ex Parte Jamieson*). In order to elicit the jury’s conclusions on this, they may be directed to provide an expanded narrative conclusion either in addition to, or instead of, a short-form conclusion. See *R (Middleton) v West Somerset Coroner* [2004] 2 AC 182 at [35]-[38]. This modified approach in Article 2 inquests has been given statutory force by section 5(2) of the CJA.
- g. In accordance with section 10(2) of the CJA, no determination may be framed in such a way so as to appear to determine any question of civil liability or the criminal liability of a named person. However, this does not prevent a coroner or jury from

returning a conclusion of either lawful or unlawful killing, where appropriate (provided that, in the case of unlawful killing, the perpetrator is not named).

- h. Where a coroner sits with a jury, the coroner must determine, and provide direction on, the conclusions which the jury may consider. The coroner should not leave any determinations to the jury which they could not properly return on the evidence. In making this decision, the two-limbed “Galbraith plus” test is to be applied: (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 either limb is not met in respect of a conclusion, it should not be left 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.
- i. As explained in *R v HM Coroner for West Berkshire, Ex Parte Thomas* (1991) 155 JP 681 at 697-698 (Bingham LJ), a coroner may properly conclude that only one conclusion is safe upon the evidence. *Thomas* is also authority for the principle that an open conclusion should only be left in cases where the evidence has not fully disclosed the means whereby the cause of death arose.
- j. The obligation in domestic law of a coroner to leave only those conclusions which are properly supported by the evidence is not in conflict with the duty under Article 2 ECHR to hold a Convention-compliant investigation. This issue was considered in *Bubbins v UK* (2005) 41 EHRR 24, a case where the coroner had directed a lawful killing verdict (see [94]-[95]) and where the ECtHR found no violation of Article 2 procedural obligations (see [165]). At [163], the Court explained why the directed verdict created no difficulty in Article 2 terms:

“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.”

Relevant Principles relating to Lawful Killing and Self-Defence

- 16. As regards a conclusion of lawful killing, the following legal principles are of significance:

- a. A conclusion of lawful killing is a positive finding that a death arose from an act which would amount to a crime of murder, manslaughter or infanticide but for the existence of a factor which justifies the act under the criminal law (*R (Duggan) v North London Assistant Deputy Coroner* [2016] 1 WLR 525 at [69]-[72] (upheld on appeal: [2017] 1 WLR 2199)). In short, it is to conclude that the death resulted from the application of lawful force. As noted above, the civil standard of proof applies to each element of this inquest conclusion (as to any finding in an inquest).
- b. Under the common law, self-defence may provide justification for an otherwise unlawful use of force. Equally, the defence of others may do so under section 3 of the Criminal Law Act 1967. In accordance with the governing principles set out in section 76 of the Criminal Justice and Immigration Act 2008 (“CJIA”), a two-limb test is to be employed when determining whether an instance of force is justified. The first limb provides a subjective test: whether or not the person honestly believed that it was necessary to use force in defence of him- or herself or others. If this limb is satisfied, an objective assessment is then made under the second limb: whether or not the person used no more force than was reasonably necessary, given the circumstances as he or she believed them to be.
- c. As regards the first limb of the test, the reasonableness of the belief is only relevant insofar as it tells upon whether the belief was honestly held (*R v Gladstone Williams* (1984) 78 Cr App R 276 at 280-81). In accordance with section 76(7)(a) of the CJIA (which reflects previous common law principles), an assessment of reasonableness under the second limb does not require a person acting in the heat of the moment to “weigh to a nicety” the precise degree of force required. Nor is a person who anticipates a threat required to passively await it: pre-emptive force may be justified if the circumstances warrant it (*Beckford v R* [1988] AC 130 at 144).
- d. The training and instructions given to firearms officers do not alter the substance of the legal test, however, they may be considered by a coroner or jury in applying the test to the facts (*Bennett* (cited above), at [15]).

17. These domestic law principles have been determined to be compliant with the ECHR and compatible with the obligations imposed by Article 2 (*Da Silva v UK* (2016) 63 EHRR 12 at [244]-[256]).

Narrative Conclusions in Article 2 cases

18. As set out in *Middleton* (cited above), the purpose of a narrative conclusion in an Article 2 inquest is to enable the coroner or jury to express findings on the key factual issues in the case. The content may include the broader circumstances surrounding a death and/or any underlying and contributory factors (*Maughan* (cited above) at [9]). These may include “the defects in [any] system which contributed to the death; and any other factors which are relevant to the circumstances of the death” (*Middleton* at [36]). A narrative conclusion may embody “a judgmental conclusion of a factual nature, directly relating to the circumstances of death” (*Middleton* at [37]). However, it must not contravene section 10(2) of the CJA by appearing to determine questions of civil liability or the criminal liability of any named person.
19. The best means by which to elicit or state conclusions on the core factual questions will vary and, although it is open to Interested Persons to make submissions, a coroner has a high degree of discretion in determining how best to elicit a jury’s conclusions in light of the issues and facts of each case (*Middleton* at [36]). In some cases, a narrative conclusion will be appropriate in addition to, or instead of, a short-form conclusion (*R (P) v HM Coroner for Avon* [2009] EWCA Civ 1367 at [25]-[26]; *R (Bodycote HIP Ltd) v HM Coroner for Herefordshire* [2008] EWHC 164 (Admin) at [23]).
20. A narrative conclusion should not go beyond matters relevant to the death under investigation. In determining whether a factor was causally relevant to the death which occurred, the test to be applied is whether or not it more than minimally, negligibly, or trivially contributed to the death (*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]). Where an event or circumstance *may* have caused or contributed to the death but cannot be proved *probably* to have done so, the coroner retains the power to elicit conclusions about that event or circumstance (*R (Lewis) v Mid and North Shropshire Coroner* [2010] 1 WLR 1836 at [28]-[29]; *R (Le Page) v HM Assistant Deputy Coroner for Inner South London* [2012] EWHC 1485 Admin at [44]-[48]; *Tainton* (cited above) at [42]). A narrative conclusion may also express conclusions on matters which feature in the

circumstances of the death in order to state that they were *not* causative of death (*R (Worthington) v HM Senior Coroner for Cumbria* [2018] EWHC 3386 (Admin) at [43]-[52]).

21. Finally, the importance of brevity and simplicity in narrative conclusions has been repeatedly emphasised (Chief Coroner’s Guidance No. 17 at [35]; *Middleton* (cited above) at [36]; *Coroner for the Birmingham Inquests (1974) v Hambleton* [2019] 1 WLR 3417 at [18]; *R (de Menezes) v Asst Deputy Coroner for Inner South London* [2008] EWHC 3356 (Admin)).

Short-form Conclusion: Lawful Killing

22. The central issue in this case concerns whether or not Usman Khan was lawfully killed and any determination should seek to resolve this issue, if the evidence permits. Moreover, the Coroner has ruled that Article 2 is engaged due to the deliberate use of lethal force by agents of the state. As set out above, in such a case, an Article 2 compliant investigation must be capable of resolving the issue of whether or not this force was justified.
23. In the present Inquest, the evidence available to the Court is plainly sufficient to permit the resolution of this issue. The Court has heard evidence from each of the officers who used force, from other officers on the scene, from those who oversaw the operation in the MPS and CoLP control rooms, and from members of the public who observed the incident. The Court has also received a substantial volume of video footage and photographic material, including Body Worn Video (“BWV”) footage from many of the officers, CCTV footage, footage from the NPAS helicopter, and videos submitted by the public. Finally, the Court has heard evidence regarding the outward appearance of the hoax IED and of the training and guidance issued to the officers (including evidence from the Chief Firearms Instructors of both Forces on how officers are trained to respond in relevant circumstances).
24. In our submission, the only safe conclusion to leave to the jury in respect of the death of Usman Khan on this critical issue is that he was lawfully killed. As it is not possible to determine precisely which shot proved fatal, it is necessary to consider each use of force in relation to every officer who employed force during the incident.¹ As set out below, it is clear that each use of force was lawful and that any conclusion to the contrary would be unsafe on the evidence.

¹ See the Post Mortem Report and Addendum Report compiled by Dr Ashley Fegan-Earl [DC6180 and DC6181].

The first phase of the armed response at 14:02: YX99, YX16, and WS5

25. YX16, YX99 and WS5 arrived on the scene at 14:01:59, having been informed that a woman had been stabbed in the neck, that the suspect was on the scene and that the use of firearms was authorised. They were instructed to pursue pedestrian interception tactics, described by YX99 as a fast, dynamic tactic, designed rapidly to bring a suspect under control.²

26. The officers left their vehicle and approached the group restraining Usman Khan, with the first officer (YX16) arriving at 14:02:15. A number of people were attempting to subdue Usman Khan, who was resisting. Both YX16 and YX99 described noticing a large knife, which had been removed from him, and all three reported hearing shouts to the effect that he had killed people.

27. YX99 issued a warning, shouting “armed police, don’t you fucking move,” to which Usman Khan did not appear to respond. YX99 took hold of him and, as he did so, Usman Khan said that he had a bomb. On checking his midriff, YX99 saw what he believed to be an IED. WS5 said that he too noticed the apparent IED and recalled hearing at least part of the phrase “Allahu Akbar.” All three officers stepped back. YX99 and WS5 shouted warnings of a bomb and directed those holding him to move away. At 14:02:49, as WS5 pulled the final person clear, YX16 discharged his taser, striking Usman Khan in the back. Almost simultaneously, YX99 fired two aimed shots from his primary weapon, a G36 carbine.

28. The officers gave the following accounts as regards the early decisions to employ force:
 - a. YX16 initially had his weapon stowed in order to take hold of the suspect. He said that he drew his taser because he knew that a person had been stabbed, had seen a knife, and because the man was behaving very aggressively. For these reasons, he believed it was necessary to bring Usman Khan under control and prevent him continuing any attack. He discharged his taser in order to achieve this.³ He was not aware of the hoax IED prior to activating his taser and said that, if he had been so

² T/4/65-66.

³ T/4/42-44.

aware, he would not have used his taser (as this runs contrary to his training on the treatment of IEDs).⁴

- b. Upon seeing the suicide vest and believing it to be genuine, YX99 resolved that it was necessary for him to shoot in order to prevent Usman Khan from activating the device and killing the people around him (including himself, his colleagues and members of the public). He described firing immediately and instinctively as soon as the final person was clear. As the first shot appeared to have no effect, he fired a second. He was not aware in that moment that YX16 had discharged his taser.⁵
 - c. WS5 gave evidence that he believed the IED to be real and, upon hearing Usman Khan speaking the phrase “Allahu Akbar,” believed that they were about to die.⁶ He drew his weapon but felt that he could not fire until the public were clear of Usman Khan. He initially recalled firing shots as he retreated back towards Fishmongers’ Hall, but he now accepts that he did not fire during this initial phase of the engagement.
29. It is evident that each of the officers honestly believed that it was necessary for him to employ force in order to protect himself, his fellow officers and the public, some of whom were in extremely close proximity. The officers were aware that Usman Khan had stabbed one or more persons, was strenuously resisting all efforts to bring him under control and had continued to resist despite their warnings and instructions.
30. It is equally clear that the level of force employed by each officer was no more than was reasonably necessary given the circumstances as that officer believed them to be. Although all three initially sought simply to confront and control the suspect, two of the three quickly noticed what appeared to be a viable IED, at which point their assessment of the risk and urgency of the situation escalated sharply. Both YX99 and WS5 saw the suicide vest at close quarters and gave evidence that it appeared to be genuine (that it was a very realistic facsimile was later confirmed by the Explosive Ordnance Disposal Technical Lead for SO15, Matthew Middleditch).⁷ Both were aware from their training that its detonation would likely result in the death of everyone in its immediate vicinity. As noted by WA30,

⁴ T/4/34-35; 47.

⁵ T/4/70-74.

⁶ T/4/14.

⁷ T/6/61; 66.

officers are trained to treat all suspected IEDs as viable until confirmed otherwise (and in any event all officers who saw this one perceived it as realistic). In order to prevent detonation, it may be necessary to take a critical shot in order immediately to incapacitate the suspect.⁸ In the circumstances as he understood them to be, YX99's decision to employ lethal force was plainly justified.

31. Although YX16 did not recall noticing the hoax IED prior to discharging his taser, he employed a level of force which was appropriate to the threat as he understood it to be. That is, that the suspect had stabbed a person, was in close proximity to police officers and members of the public and was resisting all efforts to be brought under control. Discharging his taser was clearly a proportionate response.

The second phase of the armed response at 14:03-14:12: AZ99, WS5, R158, KH16, and TC92

32. After YX99 had fired on Usman Khan, he and WS5 retreated north, shouting commands to the suspect to stay still and to the public to move back. Having now noted the apparent IED, YX16 provided a radio update explaining that shots had been fired, that the suspect had some sort of bomb and that he was incapacitated but still moving.
33. At 14:04:25, Trojan City 1 (the second CoLP ARV) arrived on scene carrying AZ99, AZ14 and YX97. AZ14 took cover behind his vehicle. Along with YX16 and YX99, AZ99 made efforts to clear the public from the west pavement before returning to take up a position at the top of the steps to Fishmongers' Hall (alongside YX97). Meanwhile, YX99 continued south across London Bridge, directing pedestrians and those in vehicles away from the scene.
34. At 14:06:50, TJ71A (the first MPS ARV on scene) arrived, carrying G108, TC52 and DB55. DB55 took cover with AZ14 behind Trojan City 1, while TC52 and G108 took up covering positions at the base of the steps to Fishmongers' Hall. WS5 joined them, moving between the pavement and the steps.
35. At 14:07:05, TJ315 (the second MPS ARV on scene) arrived, carrying R158, Q134 and R139. They moved to join YX16 at the top of the steps on the east pavement of London Bridge in order to provide cover from that angle, close off any route of escape for Usman

⁸ T/5/123-124; 128.

Khan and prevent any members of the public from approaching via the steps or from the south of the bridge.

36. At 14:07:22, the operator camera on the NPAS helicopter located Usman Khan and, from that point onwards, provided live footage of his movements to the SOR of the MPS. In the minutes that followed, he was seen to roll from side to side, touch his torso and rummage in his jacket, discarding objects from its pockets.
37. At 14:08:26, TJ3N (the third MPS ARV on scene) arrived, carrying KH16 and TC92. They took cover behind the vehicles in front of Fishmongers' Hall. At 14:09:30, officers began requesting authorisation for a critical shot. At 14:09:49, a TFC in the SOR confirmed to the officers on the ground that the incident had been made subject to an Operation Plato declaration, indicating that it was considered to be a marauding terrorist attack. A further request for authorisation for a critical shot was made at 14:10:15.
38. At 14:10:27, Usman Khan quite suddenly sat upright. This movement was noted in the SOR (via the NPAS and CCTV cameras) and by at least one of the civilian witnesses as a significant and purposeful movement.⁹ Over the next 13 seconds, 10 shots were fired. AZ99 fired three shots from his position at the top of the steps to Fishmongers' Hall, at 14:10:30, 14:10:34, and 14:10:39. WS5 fired six shots from a position near the steps. Both officers said that they fired because they believed that Usman Khan would now activate the device. From his position on the east pavement of London Bridge (directly opposite Usman Khan), R158 fired one shot at 14:10:39. On his account, he noticed that the shots fired from Fishmongers' Hall seemed to have no effect on Usman Khan and he fired as he had a clear view from an alternative angle.
39. Usman Khan fell backwards at around 14:10:40 but continued to move. At 14:10:49 and 14:11:11, WS5 fired again. From 14:11:24 to 14:11:26, four shots were fired by four officers: one by AZ99 from the top of the steps (at 14:11:24), one by TC92 from behind the vehicles (at 14:11:26), and one each by KH16 and WS5 (from near to the vehicles and the steps, respectively). At 14:11:33, authorisation was given by WA30 (supported by his Tactical Advisor, S157) for a critical shot. At 14:11:35, WS5 fired again and, at 14:11:41,

⁹ See DC7421/47-48. See also the evidence of Jonathan Hall at T/3/52.

TC92 fired the final shot. From 14:12:06, there was no further discernible movement from Usman Khan.

40. Each officer said that he fired because he feared that Usman Khan would detonate the device or was actively attempting to do so. Each said that he believed that it was necessary to incapacitate him in order to prevent this:
 - a. From his position at the top of the steps to Fishmongers' Hall, AZ99 said that he had a clear view of Usman Khan and of the apparent IED, which he believed to be viable. His opinion was that everyone within an 100m radius of the device was in mortal danger. He called to Usman Khan to keep his hands visible, but he did not comply. When the officer saw Usman Khan sit up, he described the movement as active, not reactive, and seemingly defiant. He said that he believed Usman Khan was about to detonate the device and that they were all about to die. He fired four shots and described reassessing after each shot to see what effect, if any, each was having on Usman Khan.¹⁰
 - b. R158 said that he was aware that, from their position on the east pavement, he and his colleagues were well within the blast radius for an IED and that the ballistic shield held by R139 would provide inadequate protection to the three officers sharing it. However, he felt it necessary to maintain that position in order to provide alternative cover and an armed barrier between Usman Khan and the public south of their position.¹¹ When Usman Khan sat up, R158 feared that he was about to detonate the device, causing mass casualties. He did not immediately fire, but came to the view that he must do so because the shots fired from the vicinity of Fishmongers' Hall had appeared to have no effect on Usman Khan. He fired a single shot and saw an immediate reaction as Usman Khan fell back, though he noted that Usman Khan continued to move.¹²
 - c. WS5 had seen the apparent IED in close proximity during the initial engagement and said that he believed that the device was genuine. From his position on the steps to Fishmongers' Hall he recalled seeing traffic on the river and members of the public walking on the footpath immediately beneath Usman Khan. He believed that

¹⁰ T/5/73-75.

¹¹ T/4/121.

¹² T/4/123-26.

they and the officers were at risk of being killed if the device was activated. He formed the belief that a critical shot was necessary in order to prevent the device from being detonated, but he did not initially consider it safe to fire due to there being members of the public on the bridge south of Usman Khan's position. Once his firing backdrop was clear, he described shooting in response to Usman Khan's continued movements, assessing after each shot whether further shots were necessary and safe.¹³

- d. On arrival, TC92 was informed that Usman Khan was in possession of an IED. He explained that, from his position (30-40 metres away from Usman Khan, with no significant cover) an IED would cause death or serious injury if activated. Through the Aimpoint scope of his primary weapon, he described seeing Usman Khan move his hand to his chest in a manner which he feared was an attempt to detonate the device. In response, he fired upon him. Despite this, Usman Khan continued to move. He described then seeing Usman Khan clutching at his chest which, again, he believed was an effort to trigger the IED. At that point, he fired again.¹⁴
- e. KH16 was also informed of the IED on arrival and regarded himself and his colleagues as well within its blast radius. He witnessed the shots fired from the steps of Fishmongers' Hall as Usman Khan sat up and described his incredulity that they seemed to have no effect. He decided that a critical shot was necessary in order to incapacitate Usman Khan and prevent him from triggering the device, thereby avoiding serious injury or death for himself and those around him. He described Usman Khan tugging at his chest at which time he fired once, aiming at point behind the right ear.¹⁵

- 41. It is evident from the CCTV and NPAS footage that Usman Khan continued to move throughout the second phase of the armed response. He can be seen touching his chest and stomach and, at 14:10:27, abruptly sitting up. The officers' interpretations of these movements as indicating an intent (and capacity) to activate the device are plausible. Equally, none of the officers doubted that the device was genuine (as is evident from their radio communications and words spoken at the time). Each was far closer than the 100m

¹³ T/4/24-25.

¹⁴ T/5/41-43.

¹⁵ T/5/17-21.

minimum recommended distance dictated by their training. Most expressed fear for their lives and for the lives of the public. Throughout this time, there were members of the public within nearby buildings, on the footpath under Usman Khan, on the south side of bridge, and on the river. In this context, it is unquestionable that each officer honestly believed that it was necessary to use force in order to defend themselves and others from what was an apparently viable threat of death or serious injury.

42. In circumstances in which officers (reasonably) believed that Usman Khan presented an imminent prospect of inflicting mass fatalities, it is also plain that each officer's use of lethal force was proportionate. Usman Khan persistently failed to respond to commands to remain still and, at times, appeared to make clear and deliberate movements such as sitting up. He had claimed to have a bomb, and he had demonstrated a capacity and intention to cause injury and death. He was in a built-up area in central London, and the potential harm from the detonation of a viable IED was clear to those on the ground and those watching in the SOR. As explained by WA30 in explaining his decision to authorise a critical shot: "It was quite obvious there was only one solution to this, and that was a critical shot."¹⁶
43. The Chief Firearms Instructors for the CoLP and for the MPS, Acting Inspector Chris Flack and Chief Inspector Phil Taylor respectively, explained that Operation Plato guidance requires officers to locate, confront and neutralise any threat as soon as possible. When presented with an imminent or extreme threat to life, they may use a critical shot to achieve immediate incapacitation. Both agreed that, given the situation that they were confronted with, the officers' actions were appropriate and in accordance with their training. A critical shot was considered to be commensurate with the apparent threat presented.
44. Although Interested Persons in an inquest do not have any obligation to put a case, we should also observe that none of the officers has been challenged in his evidence as to his genuine belief in the threat faced or as to the reasonableness of the use of force. The family of Usman Khan have strongly condemned his actions on the day of the attack. Their counsel has not sought to challenge the officers' conduct by questioning in this inquest.
45. On the basis of the evidence summarised above, we submit that the jury should be directed to return a conclusion of lawful killing. In providing this direction, it can and should be explained to the jury that, where there is only one appropriate answer to an issue, the law

¹⁶ T/5/127.

requires the coroner to provide a direction to that effect. It would likely assist them in their understanding to explain the elements of the relevant legal test as set out above and, in our submission, this should also be done.

Supplementary Narrative

46. We submit that it would also be appropriate to invite the jury to prepare a short narrative conclusion to supplement this short-form conclusion. This will enable them, as primary fact-finders, to provide a full determination on the question of how Usman Khan came by his death. In order to facilitate this, they should be asked to formulate up to a few paragraphs setting out the means and circumstances of Usman Khan's death.

47. In our submission, the composition of a short narrative as set out above is to be preferred over the use of a questionnaire for this purpose. As the jury are not being asked to resolve the issues relating to the lawfulness or otherwise of the force employed, we are not persuaded that there are particular and targeted factual questions which they need to resolve.

48. In our submission, the jury should be directed on the narrative as follows:
 - a. They are to prepare a short narrative, consisting of up to a few paragraphs, which sets out the circumstances in which Usman Khan met his death and the means by which he died.

 - b. In particular, they should be invited to address the following topics:
 - i. A very brief account of Usman Khan's actions immediately prior to the arrival of armed police officers, including (for example) (a) that he had armed himself with knives and stabbed multiple people in Fishmongers' Hall and (b) that he had left the Hall and been pursued and tackled on London Bridge by attendees of the event and members of the public;
 - ii. The device being worn by Usman Khan and its resemblance to an improvised explosive device ("IED");
 - iii. The arrival of the ARV carrying the first three armed officers on the scene at 14:01:59;
 - iv. The actions the first three armed officers and of Usman Khan during the initial phase of the armed response, including (a) any instructions given by

- those officers, (b) Usman Khan's movements, (c) the use of the taser by YX16, (d) the first two shots fired and (e) YX99's reasons for firing;
- v. The actions of the armed police officers in the immediate aftermath to this first phase, including the arrival of further armed officers and their decisions in positioning themselves and providing cover;
 - vi. The conduct of the officers in assessing the threat posed and any commands they issued to Usman Khan;
 - vii. Usman Khan's actions and movements throughout the second phase of the armed response (i.e. from 14:03 to 14:12) and the way in which these were interpreted by the officers observing him; and
 - viii. The actions of the armed police officers between 14:10 and 14:11 in firing on Usman Khan multiple times and their reasons for firing at him.
- c. The narrative should only address the means and circumstances of Usman Khan's death. The jury should be reminded not to comment on any other subject.
 - d. The jury should be encouraged to be brief and to use clear, simple language.
 - e. They should be reminded to avoid using words or phrases such as "crime / criminal," "illegal / unlawful," "negligence / negligent," "breach of duty," "duty of care," "careless," "reckless," "liability," or "guilt / guilty." They may, however, use ordinary non-technical language expressing factual judgments (Chief Coroner's Guidance No. 17 at [52]-[53]).
49. In addition to these directions, the Coroner may wish to note in his summing-up and general directions on the evidence that the evidence has not suggested any basis of criticism in respect of the officers who engaged Usman Khan.
50. We recognise that Interested Persons may have further submissions on the directions to be given in order to elicit a permissible and legitimate form of narrative conclusion. We shall consider and respond to any such submissions in oral argument.

Record of Inquest

51. To assist in their task, a Record of Inquest form should be provided to the jury in respect of Usman Khan, with his personal details and the medical cause of death completed.

Sections 3 and 4 should be annotated with the entry: “See Determination Sheet attached.” The Determination Sheet should begin with a note at the top stating that the jury should use it to set out their conclusions as to by what means and in what circumstances the named person came by his death. It should next contain an entry, marked “Short-form conclusion: Lawful Killing.” Beneath that entry, there should be a section headed “Supplementary Narrative”, under which the jury should be invited to write their short narrative. Once this has been written and checked, a fair copy can be typed up and the jury can be asked to sign the Record of Inquest with the printed Determination Sheet attached.

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8 June 2021