

IN THE CENTRAL CRIMINAL COURT

**INQUESTS ARISING FROM THE DEATHS IN THE WESTMINSTER TERROR
ATTACK 22 MARCH 2017**

**Note on outstanding disclosure and witnesses requested
on behalf of the family of PC Keith Palmer**

Introduction

1. There are a number of matters of disclosure that flow from the evidence of Commander Usher; Chief Supt. Aldworth and the recently disclosed statement (but not exhibits) of Inspector Rose. In order to assist with the question of outstanding disclosure, previous requests have been added to this document in order that all matters can be considered together. Reference is made to the requests outstanding as referred to in the note dated 23.09.18 at paragraph 24 (Appendix 1)
2. It is submitted that the material should be disclosed prior to Commander Usher being recalled.

Matters outstanding in light of Commander Usher's evidence

DPS Investigation into Working Practices (24 f.)

3. In evidence on 24th September 2018 Commander Usher was unable to provide clarity as to the material used by the DPS to reach conclusions about wider command practice and scope for personal interpretation of Post Notes on the basis that this was

not his report or his findings. However, he went on to give evidence that was at odds with the DPS investigator's conclusions.

4. Accordingly, the issue of others failing to read Post Notes on ADAM and systemic failures, as opposed to individual, is a live one.
5. It is plain that there was an investigation by the DPS investigator into the working practices of others. This document is explicitly referenced in the report (WS5099/44) as having been carried out by Chief Superintendent Johnston.
6. This documentation was requested on the 10, 13, 23 and 25th September 2018. It was understood that matters would be kept under review during the evidence of Commander Usher.

Post Instructions and Tactical Reviews (24 a.)

7. Post Instructions (26th May 2010 to 28th November 2014) and their supporting Tactical Planning Reviews have not been disclosed. Questions have been asked on the basis of a schedule summarising the Post Notes but Commander Usher was not in a position to answer questions. If these documents are not to be provided, despite what we would submit is their clear relevance, we ask that the following be confirmed in respect of the Post Notes:
 - a. Did they all refer to maps in the base room? It is submitted that this material is relevant to assessing the length of time during which AFOs are likely to have patrolled according to what we are told was an "alarm map" rather than the detail in the Post Notes.
 - b. Did they all refer to recorded supervisor checks? This is relevant to the existence and scale of any systemic issue. Further, the time over which there has been a requirement for recorded supervisor checks, when contrasted with

the absence of any such records, would be further evidence indicative of a systemic failing to supervise or ensure compliance with Post Notes.

- c. Were there ever more than 2 AFOs covering the area of NPY prior to 22 March 2017? Evidence was disclosed yesterday by CTI as to the position in 2015, namely 2 AFOs. We have not had the answer as to the period covered by the summary 2010-15. If the numbers have changed during the period, then this is relevant to the adequacy of the systems. If it is not known whether the numbers have at any point changed prior to March 2017, it will be difficult to ascertain the extent and duration of any failing to protect NPY.

8. In relation to Tactical Reviews, in light of CSupt. Aldworth's evidence, we ask for sight of what is recorded in relation to:

- a. Members Entrance;
- b. Cromwell Green;
- c. Colonnades/ Subway Entrance;
- d. MPs/ protected persons.

9. The relevance of such material is that it will assist as to locations that were recognised as vulnerable, beyond simply Carriage Gates, requiring the legitimate presence of AFOs in the entirety of NPY. Any reference to Subway/ Colonnades/ Member's Entrance and/or to protected persons is relevant to the requirement to be in that area and hence to the evidence of C.Supt. Aldworth and Inspector Rose.

Records of Checks by Supervisors (24 b.)

10. It is understood that enquiries are on-going but it is emphasised that these are of substantial importance in demonstrating an inadequate system of supervision and/or to support the evidence that this was not a case of individual failures.

Records of Briefings (24 c.)

11. It is understood that the MPS is reviewing materials in respect of the statement of Inspector Rose provided on 26.09.18. For this statement to be understood it is submitted that his exhibits must be disclosed. Further, that this material is relevant to the questioning of Commander Usher.

12. Evidence has been given of oral briefings and briefings by way of email (PC Sanders gives very specific evidence of an email and briefing). Has there been any attempt to contact the PS and/or duty officers who provided such briefings to obtain evidence as to what AFOs were told to do in relation to NPY and what was said as to the maps? Although the MPS has asserted that this material does not exist, no clarification is given of who has been asked. Experience has shown that the family have been told that material does not exist only for it to come to light during questioning. Inspectors and Police Sergeants ordinarily have some written briefing material, be it in the form of emails, minutes or notes.

Checks of ADAM post March 2017 (24 e.)

13. Commander Usher has stated in his further statement of 24.09.18 that since March 2017 a monthly check of ADAM has been carried out however no data has been provided as to compliance. It is submitted that this will be relevant evidence of the extent to which checking of ADAM remains an issue in the MPS and the extent to which any systemic problems have been rectified. At the very least this will be relevant to consideration of Regulation 28.

Training (24 g.)

14. Commander Usher also gave evidence of training that he stated has been given as to explosions and responding to them. We have not had sight of any training material and/or exercises for AFOs. It transpires that the training document referred to by CSupt. Morris is not relevant. We seek information to set out what, if any, training

was provided to AFOs as to where they should be positioned in NPY and what to do in the event of an attack in that area.

15. Police Trainers ordinarily have written training plans and exercises which they use for the training sessions. Students are sometimes given access to written material. PC Ashby and Inspector Rose both talk of an exercise at POW prior to the 22nd March 2017. It is inconceivable that there would have been no reference to that exercise in any documentation.

SUSANNAH STEVENS

THOMAS COKE-SMYTH

Q.E.B. HOLLIS WHITEMAN

26th September 2018

APPENDIX 1: RELEVANT EXCERPT FROM NOTE 23.09.18

Disclosure which remains outstanding

24. From the list of requests dated 13.09.18 the following items remain outstanding in light of the submissions above:

- a. Item 4 and Item 16: Full Post Instructions from 26th May 2010 to 28th November 2014 accompanied by their supporting Tactical Planning Review as contained in their original format (with appropriate redaction where not dealing with NPY, Sector 3 or general arrangements) are requested. Confirmation remains sought as to whether it is the MPS's position that there were no fixed posts for AFOs at Carriage Gates prior to the December 2015 Post Instruction (see paras 9 to 19).

MPS response 23.09.18 The full post instructions have been disclosed to the IT. The relevant parts dealing with New Palace Yard have been disclosed to IPs. The relevant tactical planning review and its 2014 predecessor have also been disclosed to the IT and the relevant parts disclosed to the IPs. There was no fixed post up to at least 2010. The earlier position is of no relevance but, as set out above, enquiries continue with archived documents.

CTI response 24.09.18: p.5

1 the two most
2 recent sets of post instructions have been provided, as
3 have relevant parts of the two most recent tactical
4 assessments. The relevant sections of earlier post
5 notes have been disclosed for context going back several
6 years. In our submission, further inquiries in this
7 area aren't required, bearing in mind that this is
8 an inquiry into what happened in March 2017, not
9 an inquiry into historic systems or how they came to
10 change many years ago.

- b. Item 6. Records of checks by supervisors of AFOs and positioning in NPY. In view of reference in the Post Instruction dated 14 December 2015 to "*Recorded periodic checks are to be carried out to ensure compliance with these instructions*" evidence of these checks is sought or confirmation that no such records exist. Documentary evidence of any improvement or change

remains sought. The request should be made of the duty officers and/or PS undertaking the task, rather than the “understanding” of senior officers about the existence of such records.

MPS response 23.09.18. IPs were informed, on 21.09.18 that there is no central record of checks on compliance with post notes before 22.03.17.

CTI response 24.09.18: p.5

11 Secondly, records of checks of compliance with post
12 notes. We have been told that these don't exist.

- c. Item 7. The request was not limited to briefings contained in a binder. Evidence has been given of oral briefings and briefings by way of email. Has there been any attempt to contact the PS and/or duty officers who provided such briefings to obtain evidence as to what AFOs were told to do in relation to NPY and what was said as to the maps?

MPS response 23.09.18. All relevant material has been disclosed. The evidence about apparent conversations with supervisors was not mentioned until PCs Ashby and Sanders gave evidence.

CTI response 24.09.18: p.5

13 Thirdly, records of briefings. The MPS have stated
14 that all material in this category have been provided
15 and we have no basis for disbelieving them.

- d. Item 12. Confirmation of whether post May 2015 there was any consultation or communication from the MPS to the Parliamentary authorities about keeping Carriage Gates closed.

MPS response 23.09.18. All such evidence has been disclosed in the statements and exhibits of Commander Usher and Mr Hepburn.

- e. Item 18c and d. Advance disclosure is sought of any relevant material relied upon by Commander Usher in respect of these assertions or confirmation that no such material exists.

MPS response 23.09.18. These questions have been answered more than once by the MPS and the IT. Commander Usher can be asked about this. However, he was of course not the author of the MM1, and this is simply a PaDP officer's opinion which informed the decision relating to misconduct.

CTI response 24.09.18: p.5

20 Fifthly, documents about changes to the ADAM system
21 in recent times. Sir, it's hard to see, we say, this is
22 relevant to the inquiry into the events of March 2017 or
23 how they came to take place.

- f. Item 9 and 21c. Materials relied upon to reach conclusions that Post Notes are considered advisory and that there is scope for personal interpretation, in particular, the identified review of working practices.

MPS response 23.09.18. The matter was referred back from DPS. These questions have been answered more than once by the MPS and the IT. Commander Usher can be asked about this, although he was of course not the author of the MM1 and this is simply a PaDP officer's opinion which informed the decision relating to misconduct.

CTI response 24.09.18: p.5-6

24 Sixthly, material underpinning the DPS comment that
25 staff considered post notes to be advisory. This has
1 been answered and, in any event, the Inquests are not
2 an inquiry into the DPS investigation.

IT letter to Slater Gordon 21.09.18

1 In respect of paragraph 21(b) of the written requests dated 13 September 2018, we now note that the MPS is making enquiries to answer those questions and is searching for relevant material.

2 In respect of paragraph 21(d) of the same document, we have asked the MPS to provide any records which are in existence which underpin the comment in the MM1 form that it is clear that this practice is not unique to these officers, and that wider command practice was reflective of the same misunderstanding". If the MPS confirms that there are no such records, we consider that this is a question for Commander Usher. In any event, we expect Commander Usher to prepare himself to answer that question.

- g. Items 24 – 26. Training material as to exercises given in relation to attacks at Carriage Gates and/or terrorist attacks. Hypothetical questions have been put as to whether or not an AFO would leave a static post. No disclosure has been given as to training and/or exercises on the subject. Further, no training material and/or disclosure of exercises has been provided as to the interplay between unarmed officers and AFOs. PC Ashby and PC Sanders could not be questioned about the training and/or exercises undertaken by unarmed officers as they had been AFOs for a considerable time by the attack.

MPS response 23.09.18 These requests have already been answered by the MPS and the IT. Disclosure has been made of appropriate training documents.

CTI response 24.09.18: p.6

3 Seventhly, training material , this has been answered ,

4 and the questioning of PCs Ashby and Sanders has, in our

5 submission, thrown up no further areas for inquiry .

