

THE CHIEF CORONER

HHJ LUCRAFT QC

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

**SUBMISSIONS ON BEHALF OF THE METROPOLITAN POLICE SERVICE
IN RESPONSE TO THE SUBMISSIONS OF PC KEITH PALMER'S SISTERS**

1. These submissions are made on behalf of the MPS, in response to the submissions advanced on behalf of the sisters of PC Keith Palmer.
2. The MPS of course recognises that PC Palmer's family have been caused immense anguish. PC Palmer was a dedicated and highly valued Metropolitan Police officer, whose conspicuous bravery and ultimate sacrifice in the course of duty is plain and obvious, and his colleagues and superiors in the MPS share that anguish. Accordingly, the MPS is anxious to support his family, and to assist it in its engagement with the inquest process. MPS family liaison and SO15 officers have been regularly in touch, and have assisted where they can.
3. The MPS also acknowledges the fact that the distress of his sisters (and some other members of his family) has been aggravated by funding and disclosure issues arising from the inquest procedure.

Application to adjourn

4. However, the MPS respectfully suggests that it is not right to say that PC Palmer's sisters cannot meaningfully engage or participate in the inquest into their brother's tragic death, or that his inquest must be adjourned.
5. It is significant that PC Palmer's widow (represented by Slater Gordon) has not sought to argue that she is unable to participate meaningfully, or that her husband's inquest must be adjourned, even though the material most significant to the issue of parliamentary security, namely the first two statements of Commander Usher

(statements of 16 July and 10 August, uploaded, respectively, on 18 July and 10 August 2018) and relevant statements of PCs Ashby and Sanders (dated 29 June and 15 June, respectively, and uploaded on 26 August and 3 September) would have become available to her through Opus only shortly before, or at the same time, as they became available to her sisters-in-law.

6. The fact that one of the core issues in the inquest of PC Palmer was going to be the 'adequacy of the security arrangements and precautions at the Palace' was highlighted to the IPs at the PIR on 19 May 2017 (see submissions of CTI, para 29(c)(5)), and was determined at the subsequent PIR on 15 January 2018, and has generally been known about since then. All the IPs were aware, of course, from 18 May 2018, that PCs Ashby and Sanders were to be called as witnesses, a fact of which PC Palmer's sisters would have been aware from the date of their instruction of lawyers on 2 August and their access to Opus on 6 August. The CCTV, which showed the location of the AFO's at the time of the attack, was shown to PC Palmer's family on 3 July 2018.
7. Moreover, the misconduct report material, which was exhibited to the first statement of Commander Usher of 16 July 2018, was available to them from 17 August (delayed from 6 August, in their case, on account of the folder error), as was the bulk of the information concerning prior reviews into parliamentary security. Commander Usher's first, detailed, statement of 16 July was served on 16 July, in accordance with the Chief Coroner's direction.
8. The elapse of time from the point at which access was gained to Commander Usher's first statement, and the time when PC Ashby and Sanders' statements were uploaded is not, therefore, such as should present any practical difficulties to PC Palmer's sisters' legal representatives in their representation of their interests. The statements are not unduly voluminous, and the issues surrounding parliamentary security are limited in scope (if complex in their application and resolution).
9. In any event, the MPS notes that Commander Usher is not giving evidence until 24 September, and PCs Ashby and Sanders are not likely to be called until 18 September.
10. It follows that, in the MPS' respectful submission, no adjournment is necessary or required. An adjournment would of course be highly disruptive and contrary to the proper interests of the witnesses and the other IPs.
11. It is unfortunate that counsel for PC Palmer's sisters only contacted the inquest team on 5 September to raise the issue of whether there was sufficient time to prepare, and only raised the intention to apply to adjourn PC Palmer's inquest on Monday, 10 September, after the inquests had begun. However, it may be that the genesis of the

intended application was the refusal by the Legal Aid Agency, also of 5 September, to fund representation.

Disclosure

12. In addition, PC Palmer's sisters have raised the issue of whether relevant disclosure is outstanding in relation to the issue of parliamentary security.

13. The MPS has worked closely with the inquest team to ensure that all relevant material has been disclosed. The MPS has been entirely transparent throughout this process, and any material that might be relevant has been disclosed to the inquest team, which has then decided what relevant material should then be provided to the IPs.

14. By email to all IPs on 10.09.18, the solicitor to the inquests stated that:

CTI are satisfied that the materials which have been disclosed to IPs provide the relevant information about the security of the Palace of Westminster, in a way which is proportionate and which respects the clear sensitivity of much of the material that has been reviewed.

CTI has borne in mind both that the security in the area of New Palace Yard is within the scope of the Inquests and a matter of understandable interest for PC Keith Palmer's family. CTI have also had in mind that the Inquests are not, and could not be, a wide-ranging investigation into the safety and security of the Parliamentary estate, something which in any event could not take place in public.

15. As Counsel to the Inquests have properly stated (para 4(9d) of their submissions), a great deal of time and effort has gone into preparing and presenting the relevant material on this sensitive topic, and in a way that does not jeopardise the safety of police officers, the public or those working in and around Parliament. That all the relevant material has been disclosed in original form or in gist can be seen in the fact that, in so far as the MPS understands, no PII application has had to be made in respect of Parliamentary security material.

16. Commander Usher's first, 27-page, statement, in particular, is self-evidently thorough and detailed, and plainly addresses the many various aspects of parliamentary security. A great of material was reviewed and incorporated into the statement, with the assistance of DLS and counsel.

17. Not only does it cover the issues of the geography of NPY, the physical security measures on the perimeter and within NPY, the arrangements for gates and barriers

being opened and closed, the Police and security personnel stationed in and around NPY, defensive equipment (including firearms), armed officers, the availability of other police officers, training, and the briefing of, and post-notes relating to, officers, but it directly confronts the issue of PCs Ashby and Sanders' patrol location.

18. The statement also set out what the MPS believed to be all the relevant matters arising from previous reviews and recommendations into security at the Palace of Westminster. All those reviews and recommendations, however, were themselves made available to inquest team, as part of the overarching duty of candour on the MPS to provide it with all and any material that might arguable be relevant (and thus disclosable to the IPs). The inquest team was therefore able to review the material, much of which was highly sensitive (and required, in places, a high security classification to be held), in order to determine whether any further information, in addition to that contained in Commander Usher's statement, was required to be disclosed.
19. The inquest team was also aware of what was recommended following the attack. The report of Sir Jon Murphy is wide-ranging and highly confidential, and contains security sensitive information. In addition, the opinions of Sir Jon expressed after the attack do not bear the same potential relevance as reviews conducted and communicated to the MPS and or Parliament before the attacks. Nevertheless, both Commander Usher and Mr Hepburn's statements deal, where relevant, with that review. In addition, a letter sent to the Speakers of both houses relating to the Murphy review has been exhibited to Commander Usher's statement (Ex AU/2). This includes a potentially relevant recommendation from Sir Jon and the response from Commander Usher.
20. Elsewhere, other material has been provided to the IT to ensure complete transparency, and the reason why some material may not then have been disclosed to IPs is because it is irrelevant to these inquests.
21. In response to the provision of Commander Usher's statement, an extensive list of questions and issues were raised by the inquest team, to which he responded in his second statement of 10 August. He responded to yet further inquiries in his third statement of 28 August.
22. PC Palmer's sisters raise a number of other discrete disclosure issues, the relevancy or significance of which is not entirely clear. The issue of the location of the AFOs is fully addressed in Commander Usher's statement, which identifies the relevant instruction material and relevant history of the patrolling obligation, and in PCs Ashby and Sanders' statements. The Post notes of 16 January 2015 were amended on 14 December 2015, and were those that were in force on 22 March 2017, as paragraph

67 of Commander Usher's statement discloses. There are no statements from any other officers concerning the briefings of which the AFOs speak. Whether the issue of the AFOs' patrolling area has been raised subsequently within the Gold command instituted for the purposes of dealing with the MPS's involvement in the inquest process is irrelevant.

23. The fact of the DPS process has been disclosed, as has the reasoning behind its outcome. The MM1 form records the material seen by the investigator and his conclusions. The reason why it commenced has also been disclosed (para 72 of Commander Usher's first statement). Any other discussion surrounding its institution is irrelevant. Commander Usher's statement also properly raises, in the context of the constant reviews of security that were carried out, those relevant concerns that were expressed on the part of MPS officers with responsibility for security.
24. The issue of why the patrol at Carriage Gates was not static is dealt with in the statements of Commander Usher, and in the exhibits which he produces. Post notes relating to historic postings and historic security arrangements at posts other than New Palace Yard (and Carriage Gates in particular) are clearly not relevant to these inquests (the fact that historic security arrangements were not, generally, relevant was communicated to the MPS by the inquest team in the scope document).

Article 2

25. At paragraph 22 of the submissions on behalf of PC Palmer's sisters, it is submitted that the inquest should now be designated as an Art 2 inquest. It is suggested that it is important 'for the family to have clarity as to this issue at the outset, as they would have had if the evidence had been served as envisaged before the second PIH'. In addition, such a designation is said to be important to any (re)determination of their application for funding.
26. The MPS respectfully suggests that such a designation, even if appropriate (and it will be submitted in due course that the anticipated evidence concerning PC Palmer's death does not establish a violation of the State's Art 2 positive obligation to protect life) would have no impact on the current scope of PC Palmer's inquest, or the conduct of the hearing. The Art 2 issue, and the complaint about the service of the evidence, are in fact disjunctive. Moreover, funding cannot be a proper reason for designating an inquest as one that is required by Art 2. That is an issue to be solely determined by the requirements of Art 2 (and whether its substantive provisions are arguably engaged).

27. The appropriate course to take is to address the issue of Art 2 at the conclusion of the evidence, for the purposes of assessing the impact, if any, of an Art 2 designation upon the form of the Chief Coroner's conclusions:
- (a) The stated purpose behind the application, namely to evince clarity, is not made out. The MPS notes that PC Palmer's widow is not seeking an Art 2 declaration now. Moreover, PC Palmer's sisters have not sought to argue that a jury is required under section 7(2)(b) of the Coroners and Justice Act on the grounds that his death resulted from an act or omission of a police officer, or that the inquest should be held with a jury under section 7(3) because there is sufficient reason for doing so, which application might have been expected were there to be a proper basis for arguing that PC Palmer's tragic death did result from a significant systemic failing, or an operational failure, on the part of the police.
 - (b) A ruling, now, on whether, arguably, there has been a substantive violation of Art 2, for the purposes of engaging the adjectival or procedural obligation to investigate, is unlikely to serve any practical purpose at all (beyond the resonance of a declaration by the Chief Coroner that he is acting to uphold the Art 2 rights of PC Palmer's family). There will be no impact on the intensity of the Chief Coroner's review or on the ability of PC Palmer's sisters to participate. Issues concerning alleged failings will be addressed regardless of the technical description of inquest, and it is very unlikely that an Art 2 designation will make any difference: Lin v SSHD [2006] EWHC 2575 at para 31; R(Kent County Council) v HM Coroner for the County of Kent [2012] EWHC 2768, para 65. The scope of the inquiry has already been set appropriately widely, and the MPS does not doubt that Chief Coroner will exercise his judicial determination to as to ensure that the relevant facts are fully, fairly and fearlessly investigated.
 - (c) A determination, now, as to whether Article 2 was arguably engaged would be required to be re-examined in any event at the conclusion of the evidence. A less well-informed application now would, therefore, result in the considerable expenditure of time and judicial resources to no useful end.

Hugo Keith QC

12 September 2018

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