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

FIRST RULING ON CASE MANAGEMENT AND DIRECTIONS

Introduction

1. A convicted terrorist attacked and killed Saskia Jones and Jack Merritt at Fishmonger's Hall on 29 November 2019. The attacker, Usman Khan, was shot dead by police officers on London Bridge. These inquests concern each of those three deaths. I shall be conducting the inquests as a nominated judge, pursuant to para. 3 of Schedule 10 to the Coroners and Justice Act 2009 ("CJA").

2. Because of the COVID-19 pandemic, I decided that the pre-inquest hearing listed for 24 April 2020 should be vacated. A live pre-inquest hearing will be arranged for a time when safety considerations and the relaxation of restrictions allow it.

3. By this Ruling I shall decide a number of applications and matters of case management which would have been addressed at that April 2020 hearing. As I explain below, there are some limited issues which, on account of disputes between Interested Persons ("IPs"), I shall defer until such time as there is a live hearing. I shall only make determinations by way of this Ruling on subjects on which IPs and, where appropriate, the media have had proper opportunity to make written submissions. In reaching my decisions, I have considered written submissions from Counsel to the Inquests ("CTI") and from IPs.

4. For the benefit of all IPs, and in the interests of open justice more generally, I shall set out my reasoning in this Ruling in more detail than I might have done if deciding the matters at a live hearing.

Factual Background

5. On 29 November 2019, Fishmonger's Hall hosted "The Learning Together Anniversary and Alumni Event". Learning Together is an educational initiative supported by the

University of Cambridge, dedicated to the rehabilitation and education of prisoners. Fishmongers' Hall is the headquarters of Fishmongers' Company, a livery company of the City of London.

6. Usman Khan was one attendee of this event. He had been convicted in January 2012 of preparation for acts of terrorism, contrary to section 5(1) of the Terrorism Act 2006. Following his release from prison on licence on 24 December 2018, Khan was managed on Multi-Agency Public Protection Arrangements ("MAPPA"). He lived in Stafford. His licence conditions were varied to allow him to travel to London by train to attend the event at Fishmongers' Hall.

7. Other attendees of the event were current and former university students and academics, supporters of the organisation, and serving and former prisoners. Saskia Jones attended as a former Cambridge criminology student. Jack Merritt was employed by the University to work full-time for Learning Together.

8. During the course of the event, which began at 11:00, Khan and Saskia Jones were photographed sitting at the same table. During a break and shortly before 14:00, Khan spent a short period of time in the male toilets on the ground floor, near the entrance to the building. Jack Merritt went into the toilets, where Khan attacked him. By that time, Khan had prepared himself, with kitchen knives taped to his wrists. Jack Merritt received a number of serious stab wounds. This attack is believed to have taken place at about 13:57.

9. Khan left the male toilets. A female member of staff from the Hall was standing near the door. Khan gestured to her to remain silent, and walked past her. He then attacked Saskia Jones who was near the main door to Fishmongers' Hall. Khan stabbed Saskia Jones, seriously injuring her. Saskia Jones moved to the main staircase where she collapsed. She quickly received first aid from other attendees of the event.

10. Jack Merritt left the male toilets and made his way to the entrance hall. He was helped into the reception office near the front door. Staff there called the emergency services at just before 13:59.

11. Khan continued to attack others, inflicting further injuries. A number of those at the event fought back against Khan with improvised weapons from the Hall. Khan forced his way out of the building and headed onto the Bridge. He was pursued by three attendees of the event. They, and members of the public, forced Khan to the floor. They kicked the knives out of his grip. They continued to use the impromptu weapons, including a fire extinguisher and a narwhal tusk.

12. Three officers from the City of London Police ("CoLP") were the first armed officers on scene. At 14:02, they approached Khan together and confronted him, two with firearms and one with a Taser. The officers moved the attendees and public away. Both Taser and firearms were discharged at Khan. Further CoLP officers and Metropolitan Police Service ("MPS") officers arrived on scene, and it was observed that Khan was wearing what appeared to be a suicide vest. Officers moved back from Khan, who stayed in place on the Bridge but made movements at various points. Officers from both forces trained their weapons on Khan. Further shots were fired before Khan died, which the officers will say were fired to prevent detonation of an explosive device. He was later checked by explosives officers and the apparent suicide vest was found to be a convincing fake.

13. Throughout this time, first aid was given to those whom Khan had attacked. Saskia Jones was treated at the bottom of the staircase in the Hall. Jack Merritt's care began in the Hall, before he was moved to the junction of Cannon Street and King William Street. Efforts to save Jack Merritt and Saskia Jones were unsuccessful, and each was declared dead.

Designation of Interested Persons

14. The designation of IPs in the three inquests is largely uncontroversial and, with one exception, I shall grant each of the applications which have been made.

15. Those identified as IPs in an inquest have certain rights, which include the receipt of disclosure of documents from a coroner under rule 13 of the Coroners (Inquests) Rules 2013 ("the Rules"), and an entitlement to examine witnesses under rule 19. The categories of individual or organisation which are entitled to be recognised as IPs are listed in section 47(2) of the CJA. The term "Interested Person" is defined as meaning:

"(a) a spouse, civil partner, partner, parent, child, brother, sister, grandparent, child of a brother or sister, stepfather, stepmother, half-brother or half-sister;

…

(f) a person who may by any act or omission have caused or contributed to the death of the deceased, or whose employee or agent may have done so;

…

(h) a person appointed by, or representative of, an enforcing authority;

…

(i) where subsection (3) applies [i.e. where a homicide offence may have been committed involving the death of the deceased], a chief constable;

…

(k) where subsection (5) applies [i.e. where the death of the deceased is or has been the subject of a managed or independent investigation by the Independent Office for Police Conduct ("IOPC")], the Director General of the [IOPC];

…

(m) any other person who the senior coroner thinks has a sufficient interest."

16. Subsection (m) provides a coroner with a discretion as to whether IP status should be granted. In exercising that discretion, a coroner should consider (i) whether or not the applicant for IP status has a "reasonable and substantial interest" in the inquest; (ii) whether or not the applicant has a concern to intervene which is genuinely directed to the proper scope of the inquiry; and (iii) whether the applicant has any close similarity with any of the categories of person who are required to be recognised as interested persons.

17. In contrast, subsections (a) to (l) provide for designation as an IP as of right. Persons and organisations falling within any one or more of those categories are entitled to be designated IPs.

18. In their submissions, CTI have identified the persons and organisations entitled to designation and those properly seeking designation. None of those proposed designations is in dispute and I am satisfied that the following should be designated as IPs, for the reasons given by CTI as set out below:

a. Members of the families of Saskia Jones and Jack Merritt who fall within the scope of section 47(2)(a) (quoted above) are entitled to designation as IPs in their respective inquests.

b. Members of the family of Usman Khan who fall within the scope of section 47(2)(a) are likewise entitled to designation as IPs in his inquest.

c. The Commissioner of the CoLP is entitled to IP status in the inquests of Saskia Jones and Jack Merritt by virtue of section 47(2)(i), since the attack and the deaths took place in the CoLP force area. He is entitled to IP status in the inquest of Khan by virtue of section 47(2)(f), because CoLP officers fired on Khan.

d. The Commissioner of Police of the Metropolis is accorded IP status in the inquests of Saskia Jones and Jack Merritt based on sufficiency of interest (section 47(2)(m)), since MPS officers played a major part in the emergency response to the attack and officers of the MPS Counter-Terrorism Command (SO15) are now investigating the attack. The Commissioner is entitled to IP status in the inquest of Khan by virtue of section 47(2)(f), because MPS officers fired on Khan.

e. The Commissioner of the British Transport Police ("BTP") is accorded IP status in the inquests of the victims and the attacker on the basis of sufficiency of interest (section 47(2)(m)), since officers of the BTP played a significant part in the emergency response to the attack.

f. The London Ambulance Service ("LAS") is accorded IP status in the inquests of the victims and the attacker on the basis of sufficiency of interest (section 47(2)(m)). A number of LAS staff attended the scene of the attack and they were centrally involved in providing care to the injured.

g. The City of London Corporation ("CoLC") is entitled to IP status in the inquests of Saskia Jones and Jack Merritt by virtue of section 47(2)(i), since it is acting as the enforcing authority for the purposes of provisions of the Health and Safety at Work etc. Act 1974. The CoLC is accorded IP status in the inquest of Khan on the basis of sufficiency of interest (section 47(2)(m)), since it is the licensing authority

for the City of London and had a supervisory role in relation to Fishmongers' Hall (which is a licensed premises).

h. The Fishmongers' Company is accorded IP status in the inquests of the victims and the attacker on the basis of sufficiency of interest (section 47(2)(m)), since the inquests will examine the security arrangements at Fishmongers' Hall and will consider the conduct of staff of the Company.

i. The University of Cambridge is accorded IP status in the inquests of the victims and the attacker on the basis of sufficiency of interest (section 47(2)(m)). The University is responsible for the Learning Together programme. It employs the individuals who operate the programme and who organised the event on the day of the attack. The inquests will look into their dealings with Khan and the arrangements they made for the event (including communications with the Fishmongers' Company).

j. Staffordshire Police is accorded IP status in the inquests of the victims and the attacker on the basis of sufficiency of interest (section 47(2)(m)). That force was responsible for management of Khan under Part 4 of the Counter Terrorism Act 2008. Its procedures for management of Khan as a terrorist offender and the conduct of its staff are likely to be examined in the inquests.

k. Four Prevent Officers of Staffordshire Police (PS Forsyth, and PCs Oakley, Hemmings and Barker) who were on the Prevent Team involved in the management of Khan have made an application for IP status, relying upon section 47(2)(m). The application is well-founded, since the work of these individuals in managing Khan will inevitably come under the spotlight. Furthermore, their interests are not aligned with those of Staffordshire Police since their statements raise potential criticisms of the force's procedures.

l. West Midlands Police ("WMP") is accorded IP status in the inquests of the victims and the attacker on the basis of sufficiency of interest (section 47(2)(m)). WMP counter-terrorism officers were responsible for the geographical area where Khan lived in the period before the attack. It is likely that the procedures and work of the force will be considered in the inquests.

m. The Secretary of State for the Home Department ("SSHD") has requested IP status in order to represent security and counter-terrorism services, in particular MI5. Given that intended role, the SSHD is accorded IP status in the inquests of the victims and the attacker on the basis of sufficiency of interest (section 47(2)(m)). The inquests are likely to consider arrangements for monitoring Khan as a former terrorist offender, and the services have a clear interest in any inquiry touching on such matters.

n. The Secretary of State for Justice ("SSJ") has also applied for IP status based upon section 47(2)(m). The SSJ has responsibility for the Ministry of Justice, whose core functions include prisons and probation services. Since supervision of Khan by probation services will be considered in the inquests, I am satisfied that the SSJ has a sufficient interest.

o. The Director-General of the IOPC is entitled to IP status in the inquest of Khan by virtue of section 47(2)(k).

19. After the provision of written submissions by CTI and IPs, a further application for IP status was received from Barts Health NHS Trust ("Barts"). The application is made by reference to section 47(2)(m), on the basis that Jack Merritt was treated by members of the Helicopter Emergency Medical Service team and that their provision of care will be considered in the inquests. No other IP has raised any objection to that application. I am satisfied that Barts should be accorded IP status in the inquest of Jack Merritt, but not in either of the other inquests.

20. In addition to designation in the inquest concerning her son, the mother of Usman Khan has sought designation as an IP in the inquests of Saskia Jones and Jack Merritt, relying on section 47(2)(f). Such a designation would give Ms Begum rights to disclosure of documents relevant solely to those inquests including, for example, of sensitive medical information relating to Saskia Jones and Jack Merritt. I am not at present persuaded that Ms Begum does fall within section 47(2)(f), since it is my provisional view that that subsection is intended to encompass individuals who may themselves have contributed to the death of a deceased person. If Ms Begum wishes to renew the application, I shall consider it at a future hearing, giving all IPs an opportunity to make submissions. In any

event, Ms Begum is an IP in Usman Khan's inquest. She will therefore have full rights to participate in procedural hearings concerning all three inquests and will have full access to disclosure, with the exception of the very limited material relevant only to the inquests of Saskia Jones and Jack Merritt.

Disclosure

21. Operation Bemadam is the investigation of the MPS Counter Terrorism Command (SO15) into the attack. The officers of that team, led by DCI Brown as Senior Investigating Officer, are providing valuable assistance to me and to the Inquests Team as coroner's officers. The Operation Bemadam team has provided, and continues to provide, a significant number of documents from its investigation for use in the inquests. In their submissions at para. 22, CTI have provided a detailed summary of the various elements of the Operation Bemadam investigation.

22. The Inquests Team has also made requests for relevant documents of various organisations, both directly and through the SO15 team. So far, those requests have been complied with properly and promptly. It has not been necessary to exercise my powers under Schedule 5 to the CJA to compel provision of relevant evidence.

23. Rule 13 of the Rules provides for disclosure of relevant documents to IPs upon request to a coroner. Subject to certain qualifications, the coroner is to provide such documents, or make them available for inspection, as soon as is reasonably practicable. Advance disclosure enables IPs to participate in inquest proceedings in an informed and effective way.

24. The circumstances in which a coroner may refuse disclosure are set out in rule 15, including where there is a statutory or legal prohibition on disclosure. Rule 14(b) permits a coroner to disclose a document in a wholly or partially redacted form, which may be appropriate where the unedited document cannot be disclosed.

Method of disclosure

25. In a case of this scale and importance, it is standard practice for a coroner to disclose relevant evidential material pro-actively to IPs, while taking account of legitimate objections to disclosure. For the purpose of providing substantial disclosure efficiently and giving IPs ready access to the material, the Inquests Team has procured and is maintaining an electronic document management platform.

26. It is legitimate in appropriate cases to require IPs first to give undertakings only to use disclosed material for the purpose of the inquest and to keep it confidential unless and until it is deployed in court: see *R (Smith) v Oxfordshire Asst. Deputy Coroner* [2008] 3 WLR 1284 at [38]. In this case, it is appropriate to require such confidentiality undertakings to be given as the condition for receiving disclosure, not least because the disclosure will include sensitive personal information (e.g. medical information).

27. A substantial amount of material has already been disclosed to IPs by means of the Opus 2 document platform, as set out at para. 30 of the submissions of CTI. It includes an overview report from SO15; the great majority of statements of witnesses to the attack; CCTV footage showing the confrontation with Usman Khan; and substantial volumes of documents from the Fishmongers' Company and Cambridge University. A number of IPs commented positively about the disclosure process in their submissions.

Sensitive material and public interest immunity

28. There may well be security sensitive material which is relevant to the inquests, such as any documents held by security services in relation to their monitoring of Usman Khan. The following procedure is to be followed with respect to handling and disclosure of that material, as summarised in the submissions of CTI:

    a. There have been some preliminary meetings between the Inquests Team and the Security Service (MI5). In due course, the Service will provide its sensitive Post-Attack Review report and details of any underlying documents which it holds (or in which it holds equities) that may be relevant to the subject-matter of the inquests.

b. Developed Vetted members of the Inquests Team will review any underlying documents of potential relevance. There will then be discussions about what material is relevant and how relevant evidence can be given in the inquests without infringing security sensitivities. In the Westminster Bridge terror attack and London Bridge terror attack inquests, this was done by a senior officer of the Security Service making a statement which provided relevant evidence in a form that did not infringe sensitivities and then giving evidence in the inquest hearings. In those cases, my legal representatives worked with the Service to ensure that the evidence was as full as possible.

c. If the Inquests Team concludes that there is relevant documentary material which cannot be adequately presented by being summarised in the senior officer's statement, but which the Service does not agree should be disclosed to IPs and deployed in the inquests, then (i) the Inquests Team will identify the material which they would want to see disclosed to IPs if it were not sensitive; and (ii) a public interest immunity ("PII") application will then be made and determined at a hearing.

d. There are some very rare cases where a nominated judge hearing an inquest determines that the statutory duty of inquiry under the CJA cannot be sufficiently discharged without deploying evidence which has been ruled subject to PII or which is very likely to be subject to PII. In that situation, the judge may invite the Secretary of State to establish a public inquiry under the Inquiries Act 2005 in place of the inquest(s), since such an inquiry could receive evidence in closed session. This has only happened on a small number of occasions and is far from ideal, since closed material hearings do not leave bereaved families any better informed. At present, the Inquests Team do not consider it likely that the present case will fall into this category.

Applications for Anonymity and Special Measures

The applications

29. In total, 18 applications for anonymity and special measures have been made by police officers. The applications concern seven CoLP officers, and 11 MPS officers. As set out below, all IPs and media organisations who have expressed a view are content for the applications to be resolved on paper.

30. Each of the seven CoLP officers is currently a member of the CoLP Tactical Firearms Group. Three of the seven were the first three armed officers to confront Khan, as members of the public fought to control him on the floor: WS5; YX16; and YX99. Another group of three officers arrived on scene in the second CoLP armed response vehicle ("ARV"), and each took up a position whilst Khan was still alive: YX97; AZ99; and AZ14. A87, the seventh officer, had the role of Tactical Firearms Commander ("TFC") in the control room at Bishopsgate police station. A87 watched events unfold over a video link and gave consideration to authorising a critical shot.

31. The 11 MPS applicants are operational officers working within the MPS Specialist Firearms Command. Eight of the 11 officers attended the scene. They are the occupants of three MPS ARVs, and all took up positions providing firearms cover on Khan before he was killed: G108; DB55; TC52; R139; Q134; R158; TC92; and KH16. The remaining three officers were in the MPS Special Operations Room ("SOR"). TC82 held the role of TFC in the SOR and WA30 was the Initial TFC. S157 was Tactical Advisor. WA30 transmitted on the radio that a critical shot was authorised.

32. In summary, 14 of the 18 officers were at the scene and engaged in the confrontation with Khan in which he was killed. The other four were control room officers who were directly involved in directing the firearms officers on the ground, including the decision to authorise a critical shot.

33. The applications ask that the following measures be taken:

    a. the name and identifying details of each officer be withheld in disclosure and evidence within the inquests;

b. a pseudonym be used for each officer for the purposes of the inquests;

c. when each officer is giving evidence, no question may be asked which might lead to the officer's identification;

d. when giving evidence, each officer be screened from public view (but not from the coroner and jury, "approved interested persons" and lawyers);

e. each officer, when attending court to give evidence, be permitted to enter and exit the court by an appropriate, non-public route; and

f. supportive reporting restrictions be ordered under section 11 of the Contempt of Court Act 1981, prohibiting publication of each officer's name and identifying features and preventing reporting which would infringe the protective measures.

34. There is one distinction between the terms of the orders which the two forces seek. In relation to sub-paragraph (d) above, the CoLP specifies that all lawyers and the families of Jack Merritt and Saskia Jones may also see the witnesses. In contrast, the MPS wishes to limit those in court to "approved Interested Persons" and their lawyers (my emphasis). As to the intention of limiting access to "approved Interested Persons", I understand that the MPS wishes to vet members of Usman Khan's family who wish to be present in court.

Evidence

35. The 18 applications are supported by statements from the applicant officers, as well as by overview statements and risk assessments from the two police forces. The applications, statements and risk assessments, save for a limited amount of confidential sensitive material, were circulated to IPs and media organisations on 25 March 2020.

36. There is evidence of each officer's personal circumstances, as well as their objective fears for themselves, their families and their close associates and friends. Evidence is given by TC92 which is typical of that given by his colleagues:

> "Khan is likely to have a great deal of friends and associates who would be determined to retaliate in his name and in support of his cause. I am extremely concerned that should my anonymity not be maintained and my name or other

details released this would pose a real and significant threat to my own safety and that of my partner and family. I believe both myself and my family would be the target of those who would seek retribution for Khan and those who associate with Terrorist organisations or sympathise with the defendant's beliefs and actions."

37. It is said in relation to each MPS officer that "the impact of living your life whilst needing to be constantly aware of unusual activity around yourself or your family should not be underestimated. Whether a real threat exists or not, the simple belief that one does exist may be enough to cause high levels of stress, not just involving the officer but also family and friends".

38. A number of the officers also draw attention to the point that giving evidence without anonymity may have adverse effects on their future career progression, given the firearms operations and roles in which they may be involved in the future. For example, G108 gives evidence as follows: "should my identity become known, it is highly likely that I would have to re-consider my career path as it may compromise the identity of my colleagues and any future operations on which I would have been deployed."

39. Some officers are more specific as to their future career plans, such as AZ99 who has "future ambitions to work as part of the Royalty and Specialist protection unit" and who believes that revelation of his identity would render this possibility "non-existent". YX99 refers more generally to a long future career and says that giving evidence without anonymity "would severely limit my options as to what roles I could apply for and would almost certainly prevent me from working in covert roles in the future".

40. WA30, a control room officer, says that "should my identity be disclosed I would be forced to re-consider my career path, as it may compromise the safety of myself, colleagues or third parties I may be protecting should I be deployed". S157, although in the control room during the incident, is often deployed in an overt policing role and wishes to develop into covert armed policing roles in the future.

41. On behalf of the MPS officers, Mr Butt QC makes a more general point that the naming of these officers within these high-profile inquests would interfere with their career prospects and potential development into specialist firearms and covert roles. The same

point is made by Insp Chris Rowbottom as regards the CoLP officers. Insp Rowbottom states that this would not only have a personal impact on each officer but "would have a considerable impact upon this critical service which is already over stretched with increasing demand". Supt Ryan states that the cost of selecting and training each ARV officer is approximately £23,000, with the cost of annual continuation training amounting to £5,500.

Legal principles

42. The legal principles governing applications for anonymity and special measures generally in the context of inquests may be summarised as follows. I adopted essentially the same legal summary in considering anonymity applications within the Westminster Bridge and London Bridge Terror Attack inquests. The basic principles are not in dispute.

    a. As part of the general case-management powers of a coroner, he/she may make an order anonymising witnesses or other persons within an inquest. There is no inconsistency between that power and requirements for inquests to be held in public. See: *R v HM Coroner for Newcastle upon Tyne, Ex Parte A* (1998) 162 JP 387. Courts give effect to and balance relevant rights under the ECHR by exercising this power.

    b. In deciding whether to make such orders, a coroner usually applies a common law test, making an "excursion" if appropriate into the territory of article 2 of the ECHR (the right to life). See *Re Officer L* [2007] 1 WLR 2135 at [29]. This involves a two-stage process:

        i. If the refusal of the orders would create or materially increase a risk to the life of the person, such that the risk would be "real and immediate", then the state in the person of the coroner would owe a positive duty under article 2 to protect the witness by reasonable means. In those circumstances, as it was put in the *Officer L* case, the coroner "would ordinarily have little difficulty in determining that it would be reasonable in all the circumstances to give the witness a degree of anonymity". The threshold of "real and immediate risk"

derives from the decision of the ECtHR in *Osman v UK* (1998) 29 EHRR 245. A risk is "real" if it is substantial and significant, rather than remote. It is "immediate" if it is present and continuing. See *Rabone v Pennine* Care NHS Trust [2012] 2 AC 72 at [37]-[40].

ii. If the refusal of the orders would not result in the person being exposed to a real and immediate risk of death, then the coroner should "decide the matter as one governed by common law principles", balancing the factors for and against the orders sought.

c. When applying the common law test referred to above, it is relevant for the court to consider the subjective fears of the person concerned, whatever their degree of objective justification: see *Re Officer L,* at [22]. Risks of harm falling short of real and immediate risk of death (or of serious harm such as might engage article 3 rights) may be relevant to the balancing exercise: see *Sunday Newspaper Ltd's Application (Judgment No. 2)* (2012) NIQB at [17].

d. When seeking to strike the right balance under the common law test, the coroner may consider all the consequences of granting and of refusing the orders sought. For example, in an application for anonymity by a police officer who does specialist work, a relevant factor may be that identification of the officer would prevent him/her continuing in his/her current role and would deprive the force of a valuable resource. See *R v Bedfordshire Coroner, Ex Parte Local Sunday Newspapers* (2000) 164 JP 283.

e. When applying the common law test, a coroner is also required to take proper account of the fundamental principle of open justice, which applies to coroners' courts: see *R (A) v Inner South London Coroner* [2005] UKHRR 44 at [20]. The open justice principle holds that the administration of justice should generally take place in the open, as a safeguard and to maintain public confidence. See *Scott v Scott* [1913] AC 417 at 437-39 and 476-78; *A-G v Leveller Magazine Ltd* [1979] AC 440 at 449-50. In more recent times, courts applying this principle have recognised that giving names and personalities to witnesses is an important aspect

of openness in the justice system: see *In re Guardian News and Media Ltd* [2010] 2 AC 697 at [63].

f. Where a witness seeks to justify anonymity by reference to his/her rights to private and family life under article 8 of the Convention, the court usually has to perform a balancing exercise which weighs those rights against the free speech rights of media organisations under article 10. See *In re S (A Child)* [2005] 1 AC 593 at [16]-[17]; *In re Guardian News and Media* (cited above); *SSHD v AP (No. 2)* [2010] 1 WLR 1652 at [7]. This balancing exercise is "highly fact-specific" and "must take into account the evaluation of the purpose of the principle of open justice as applied to the facts of the case and the potential value of the information in question in advancing that purpose, as against the harm the disclosure might cause the maintenance of an effective judicial process or to the legitimate interests of others": see *R (T) v West Yorkshire (Western Area) Coroner* [2018] 2 WLR 211 at [63].

g. It should be noted that some of the considerations which apply to applications for special measures in criminal cases do not apply to inquests (e.g. the point that the defendant has a right to confront his accuser, including by investigating the accuser's background). See *R v Davis* [2008] 1 AC 1128 at [21].

h. However, in general terms the open justice principle applies with full force to inquests: *Re LM (Reporting Restrictions: Coroner's Inquest)* [2007] CP Rep 48 at [26]-[40].

43. The screening of witnesses is governed by rule 18 of the Rules, which was subject to consideration in the recent case of *R (Dyer) v HM Assistant Coroner for West Yorkshire (Western)* [2019] EWHC 2897 (Admin). On the facts of this case, any officer who is granted anonymity should logically be subject to a screening order when giving evidence. In other words, the decision whether to order screens engages in substance the same balancing exercise as the anonymity applications.

Anonymity

44. Having considered the evidence carefully by reference to the legal principles, I have decided that all the applications for anonymity should be granted. Although the two police forces have made separate applications, each relying on evidence specific to the officers of that force, I shall deal with them together in this Ruling because my reasons for granting the applications are the same. The MPS provided written submissions in support of the application, whereas the CoLP relies only on witness evidence.

45. The MPS application is made by reference to common law principles and the officers' rights under article 8, ECHR, which are qualified rights. The witness statement of Supt Phil Ryan in support of the applications also makes reference to articles 2 and 5, but these arguments are not developed by Mr Butt QC for the MPS.

46. The applications and open evidence have been circulated to IPs and media organisations, and the opportunity has been given for representations to be made. There has been no opposition to these applications being decided on paper, and it has been specifically confirmed with media organisations and the family of Usman Khan that they are content for that to happen. Neither has there been any opposition to the applications for anonymity of the officers who attended the scene, although the family of Usman Khan urge proper scrutiny of the applications generally.

47. As to the officers in the CoLP and MPS control rooms, I received email submissions from the media describing their request for anonymity as "an unusual request" and contrasting it with the position in other high-profile inquests such as that concerning Jean Charles de Menezes. The point was put helpfully and succinctly by Mr Gardham: "We believe that officers giving commands who are not on the frontline should generally be identified in public hearings as a matter of principle and public confidence".

48. In my judgment, the applications for anonymity and special measures are justified by reference to common law principles of fairness (which include due consideration of the public interest). They are equally justified when one balances the article 8 rights of the officers and their families against the article 10 rights of media organisations, applying the focussed consideration suggested by the Court of Appeal in the *T* case. I have come to that conclusion for the following principal reasons.

49. First, I have no doubt that the 18 officers would be fearful of reprisals against themselves and their families if they were identified in connection with this case. The media is very likely to have photographs which show each of the officers who was present at the scene and which could be used to identify them publicly if no order is made. Moreover, if anonymity and special measures were not granted, journalists would be likely to take photographs of the officers as they arrive at court to give their evidence or as they leave court. If the applications were refused, each officer would probably have his/her name and photograph publicised widely during the inquests. I have received evidence of the steps which each officer has taken to keep identity and role private, because of anxiety which these officers feel at the prospect of their identities being widely known. Given the high-profile nature of the attack and the inquests, the officers' concerns are readily understandable.

50. While police officers (including armed officers) generally do their work in public and can expect to give evidence in public, this case raises particular considerations which take it far away from the norm. The inquests hearing will be heavily reported in the press, so that if these officers were not anonymised their names and faces would be displayed in the most public manner. Their details would remain accessible on the internet for years. They would be particularly attractive targets for terrorists who may wish to avenge the killing of Khan and draw attention to themselves.

51. Secondly, in addition to the fear of reprisals, the likely press intrusion itself is something which causes significant concern to each of the officers, for themselves and their families. While this consideration alone would not be enough to outweigh the interests of open justice, it is a point to be taken into account in the balancing exercise.

52. Thirdly, Supt Ryan states that "any form of disclosure leading to [the officers'] identification would have a severe impact upon their ability to do… covert roles in the future such as CTSFOs". As I have observed, a number of the officers express specific desires to develop their careers in this way. Other officers are early in their careers and do not know how they will develop. It would be a real disadvantage to the officers for their career development to be hampered.

53. Fourthly, in addition to the personal impact on these officers of limiting their career development, the refusal of these orders would create difficulties for the police forces concerned. There is real value to the police forces in these highly trained officers having the opportunity to develop into the full range of specialist roles. In addition, many of the officers feel that they would be unable even to continue in their current roles if they gave evidence without anonymity, because they would be concerned that their notoriety would put themselves and their colleagues in danger.

54. Fifthly, I consider that granting these orders will probably improve the quality of each officer's evidence, should they be called. It is likely that the court will receive clearer and more useful evidence from these important witnesses if they are giving evidence without the weight of the anxieties they have expressed. Having seen in other cases the evidence of officers who have played a similar role in responding to apparent terror attacks, I am satisfied that the orders would have that beneficial effect.

55. Sixthly, the consequences of the orders on media reporting and open justice need to be considered on the facts of the case. The practical consequence of these orders will be that all evidence of the relevant officers will be given in open court and can be reported fully. Journalists and members of the public will be able to hear the officers giving evidence. The inability of the media to use the names and photographs of officers in reports may make news reporting somewhat less compelling, but it will not prevent the media's reporting of the substance of evidence. It is relevant that the media organisations do not contest most of the applications, although that is not in itself determinative.

56. In light of the measured and responsible submissions of the media organisations, I have considered the applications of the four control room officers with particular care. In doing so, I have asked myself whether their applications are justified by reference to the same tests and principles articulated above.

57. In my judgment, the applications of the four control room officers should be granted for substantially the same reasons as those which apply to the other 14 officers. Each of these four officers has made a good case for anonymity because they have the same reasonable fears as their colleagues and would suffer the same career limitations as a result of giving evidence without anonymity. These officers would attract as much

attention because of their role in directing the firearms response as those who fired the shots at the scene (especially if the latter were anonymised and the former were not).

58. I appreciate that the media organisations are concerned that a ruling granting anonymity to control room officers could become some form of precedent. To be clear, the decision I have reached is specific to the facts and evidence in this case, and I have applied well-established principles in making the decision. I should also observe that there have been other cases in which some officers stationed in police control rooms have been anonymised. Indeed, in the de Menezes inquest to which the media organisations refer, some control room officers were anonymised (although not the most senior officers in the control room).

Special Measures

59. As noted above, the screening of witnesses is governed by rule 18 of the Rules. Otherwise, special measures which may be taken to protect witnesses are governed by common law powers of case management.

60. In my judgment, an order should be made that each of these officers may give evidence from behind a screen, so that the officers are not seen by the general public or press in court. As explained above, on the facts of this case, screening orders follow logically from the anonymity orders as they are in practice required to protect the officers' anonymity.

61. As regards the terms and scope of the screening order, the only submission made is that of Mr Bunting for the family of Usman Khan. He submits that there is no justification for the suggestion that any members of the family might not see the officers while each gives evidence. In my judgment, the appropriate order is that (a) each of these officers, when giving evidence, should be screened such that they can be seen only by the coroner, jury, court staff, IPs and their legal representatives; but (b) the officers or their respective forces may apply for the screening order to be extended so that identified IPs may not see the officers when giving evidence. That form of order would appropriately place the burden on the applicants to justify any IP not being able to see the officers giving evidence. However, since I am making this order without having canvassed it

specifically with all IPs, I shall consider at the first hearing any submission that it should be varied.

62. The requested orders for officers to enter and leave the court via a private route are plainly justified as essential to support the anonymity and screening orders and to enable the officers to give their best evidence. I shall make those orders accordingly.

Contempt of Court Act 1981

63. The conclusion that anonymity orders are justified in this case as set out above leads me to decide that an associated order under section 11 of the Contempt of Court Act 1981 should be made. That section provides:

> "In any case where a court (having power to do so) allows a name or other matter to be withheld from the public in proceedings before the court, the court may give such directions as appear to the court to be necessary for the purpose for which it was withheld."

64. Having accepted that the interests of justice require these officers to be granted anonymity within the inquests, it follows that reporting of their names and identifying details in connection with the inquests should be prohibited. Otherwise, for example, if they were seen entering or leaving court, there would be nothing to stop their photographs being printed or their identities revealed in public. Accordingly, I shall make an appropriate order under section 11.

Organisation of the Inquests

65. The proposal of CTI is that it is appropriate for the inquests of Jack Merritt and Saskia Jones to be heard separately from, but immediately before, the inquest of the attacker, Usman Khan. It is also proposed that Jack Merritt's and Saskia Jones's inquests should be heard at the same time. There is no dispute about the latter proposal, and it is plainly appropriate that those two inquests should be the subject of a single hearing, given that the two inquests involve substantially common evidence and issues. I shall therefore direct now that the inquests of Jack Merritt and Saskia Jones should be heard together.

66. The former submission of CTI, that the three deaths should not be investigated in a single hearing, is not agreed by all IPs. On behalf of the family of Usman Khan it is said that his inquest should be heard by the same tribunal of fact and at the same time as the inquests of Jack Merritt and Saskia Jones. Mr Bunting, for the family, asserts that there is a considerable overlap in scope. He points out that both hearings will in any event require a jury and suggests that there is a risk of the jury in Khan's inquest being influenced by press coverage from a prior hearing concerning the attack. He submits that Khan's family have set out a proper interest in the issues in the inquests of the victims.

67. In addition, Mr Bunting originally made the submission that the families of the victims had not expressed any opposition to all three inquests being heard together. Although that submission was properly made at the time, the Merritt and Jones families have since then expressed very strong views that the inquest of Usman Khan should be heard separately from those of Saskia Jones and Jack Merritt.

68. The Khan family asks that this issue be left over to be determined at a pre-inquest hearing. In light of their submissions, and since a hearing in the autumn of 2020 should be possible, I am prepared to take that course. Accordingly, I shall make no determination now as to whether or not the inquests of the victims will be heard at the same time as the inquest of the attacker. I do, however, note the strong views of the families of both Saskia Jones and Jack Merritt that they are opposed to all three inquests being heard together. That must be an important factor in determining this issue, and I shall require some persuasion the approach suggested by the Khan family should be adopted. Nonetheless, I have not reached a final view and the matter will be deferred to the first pre-inquest hearing.

Time, Venue and Logistics of the Inquest Hearing(s)

69. Although I am deferring consideration of the organisation of the three inquests, it is important to fix a date for the main hearing(s) now so that all involved may make appropriate preparations. On account of the COVID-19 pandemic, which has presented and will continue to present practical obstacles and unpredictable delays, any listing must unfortunately be subject to change. However, it is my earnest hope that the listing set

out below can be preserved and I would ask all IPs to assist in working towards a hearing as scheduled.

70. Listing proposals were made by CTI and I did not receive any submissions in dissent. Accordingly, I shall make directions to the following effect:

    a. Subject to this being practicable (with any requirement for social distancing), the inquests will take place at the Central Criminal Court (the Old Bailey). The Inquests Team will explore options to use more than one court room in the building if that is needed for the health and safety of those attending.

    b. I shall provisionally list the hearing(s) of the inquests to commence shortly after Easter 2021 (4 April 2021), i.e. to start in early April 2021. That start time is my reasonably firm intention. If there are to be two inquest hearings, the inquest of Saskia Jones and Jack Merritt will be first in order.

    c. A time estimate of 6-7 weeks will be given for the hearing(s) to be concluded. CTI proposed that estimate and no IP suggested that it was unrealistic. I consider it to be a reasonable time estimate to conclude the three inquests.

Scope of Inquiry

71. In their submissions at para. 45, CTI set out a series of topics for inquiry. Most IPs either endorsed it or did not suggest that it should be modified. It is important to recognise that any direction as to the indicative scope of inquiry for these inquests must be provisional and kept under review. As further evidence is received and addressed, new topics may emerge and some issues may narrow or fall away. This consideration also justifies expressing the topics for inquiry in a broad way, rather than as tightly-defined issues.

72. The family of Saskia Jones have made submissions that some further topics ought to be added to those suggested by CTI. In summary, they suggest that topics be included addressing systems for (a) early and continued release of terrorist prisoners, such as Khan; (b) management of former terrorist offenders, such as Khan, on release from prison; (c) monitoring of former terrorist offenders, such as Khan, on release from prison; (d) use of premises for events at which former terrorist offenders are to be present; and

(e) educational organisations with responsibility or young people organising events at which former terrorist offenders are to be present.

73. In my judgment, it is legitimate to make clear that the inquests will consider systems and practices relevant to some of the topics for inquiry which have already been identified. I have accordingly decided to amend the topics concerning management and monitoring of Khan to make reference to systems governing these matters. I have also decided that a new topic should be added to cover arrangements for Khan to attend the Learning Together event, to include systems and procedures relevant to arranging his attendance. However, I should make clear that the consideration of systems and practices should be focussed on their relevance to this case. The inquests should not examine such matters in the abstract.

74. The CoLC in its written submissions has requested confirmation that the topic concerned with preparations for the Learning Together Event is intended to include the preparations of the University of Cambridge, as well as those of Fishmongers' Company. I confirm that the topic does encompass the preparations of both those organisations and shall make that clear in my directions.

75. Accordingly, I shall make a direction that the indicative scope of inquiry prepared by CTI, with the amendments referred to above, is approved.

Article 2

76. It is necessary to consider what determinations should be made at this stage as to whether or not the procedural obligation under article 2, ECHR, is engaged in relation to these inquests (in the sense considered in the case of *R (Middleton) v West Somerset Coroner* [2004] 1 AC 182). A determination that the article 2 procedural obligation is engaged in in relation to a particular inquest has the legal effect that the statutory requirement for the inquest to address "how" the deceased came by his or her death extends to the broad circumstances of death as well as the means of death. However, this legal effect primarily influences the approach to be taken to conclusions at the end of an inquest. It will usually have little or no relevance to the scope of inquiry or conduct of the inquest before the end of the evidence, since a properly conducted inquest will consider the broad circumstances

of death in any event. See: *R (Sreedharan) v HM Coroner for Greater Manchester* [2013] EWCA Civ 181 at [18(vii)].

77. In some cases, it will be possible for the coroner to make a decision as to whether the article 2 procedural obligation is engaged at an early pre-inquest stage. However, in other cases the issue will turn on a question which cannot or should not fairly be resolved without consideration of more evidence than is available at such an early stage. In such cases, the coroner can properly defer the issue for consideration later.

78. Without having determined the organisation of the inquest hearings, I must approach the question of engagement of article 2 by reference to each of the three deceased individually.

79. The law governing the engagement and significance of the article 2 procedural obligation is set out at paragraphs 46-49 of the submissions of CTI. As I understand it, there is no dispute as to the legal principles.

80. As to the inquest into the death of Usman Khan, the article 2 procedural obligation is automatically engaged because his death was the result of the deliberate use of lethal force by police officers. It is well established that article 2 is engaged in such cases, even if the use of force is fully justified.

81. As regards the inquests of Saskia Jones and Jack Merritt, the article 2 procedural obligation would only be engaged if I were satisfied on the available evidence that there is an arguable case that the state or agents of the state breached one or more substantive article 2 duties in relation to the deaths. The relevant substantive obligations are (a) a general or systemic duty on the state to establish a system of laws, precautions, procedures and means of enforcement to protect the lives of citizens; and (b) an operational duty which arises in some cases where the authorities know or ought to know of a real and immediate risk to the life of one or more individuals (or a threat to the public from one or more individuals), and which requires them to take reasonable steps within the scope of their powers to avert the risk. See para. 50(a) of the submissions of CTI and the cases there cited.

82. CTI submit that it is not possible to say at this stage whether or not it is arguable that there was any breach of such duties in relation to the deaths of Saskia Jones or Jack Merritt. In particular, they submit that any consideration of the operational duty would require asking whether there was a point in time when the authorities arguably should have been aware of a "real and immediate" risk that Khan would carry out a murderous attack and should have taken steps which might realistically have prevented it.

83. In response, the families of Saskia Jones and Jack Merritt submit that I should determine now that the article 2 procedural obligation is engaged. The submissions of the Merritt family focus upon the operational duty. They argue that, since Khan was under the supervision of state agencies and the purpose of monitoring him was to prevent danger to the public, there must be at least an arguable breach of the operational duty. The submissions of the Jones family make reference to both the general and operational duties.

84. In my judgment, it would not be appropriate now to determine that the article 2 procedural obligation is engaged in the inquests of Saskia Jones and Jack Merritt. The evidence I have received does not enable me to say that there was arguably a point in time when the authorities should have appreciated a real and immediate risk of Khan committing an attack and taken potentially effective action to prevent it. Equally, the presently available evidence does not show that there was arguably a deficiency in high-level systems and procedures developed by the state to reduce risks posed by former terrorist offenders after their release. It is telling that neither the submissions of the Jones family nor those of the Merritt family identify particular features of the evidence supporting their position that breaches were arguably committed.

85. In those circumstances, I shall not conclude now that the article 2 procedural obligation is engaged. The issue will be kept under review as further evidence is obtained and disclosed. If any IP wishes me to revisit the issue at a pre-inquest hearing, they should give sufficient notice in advance of that hearing to allow all IPs to prepare submissions and I shall reconsider the matter. However, I cannot make any commitment now as to when may be the right time to make a final determination. The only absolute rule is that the matter must be resolved before consideration is given to conclusions at the end of the inquests.

86. I am aware that one reason why the families have sought a determination at this stage that the article 2 procedural obligation is engaged is that such a determination may assist in an application for legal aid for legal representation in the inquests. The fact that a determination that article 2 is engaged can have that effect should not, of course, cause a coroner to make a determination when one is not justified. Equally, I recognise that decisions as to applications for legal aid are for the appropriate authorities, who apply established Government guidance. However, I do consider that it would be appropriate for me to put formally on record that it would be of great assistance to the families and the Court for both families to be legally represented. It is already clear to me that these are complex inquests and that a large volume of documentary material will be disclosed to IPs and adduced in evidence. The families would be significantly aided by legal teams to marshal, analyse and summarise that material. Likewise, I would be significantly aided by lawyers representing the interests of the families and drawing my attention to material which they particularly wish me to consider.

Jury/Juries

87. I have determined that Jack Merritt's inquest will be heard with that of Saskia Jones. Accordingly, if a jury is required to be summoned for one of those inquests then in practice it will be required for both. As explained above, I have not determined whether or not Usman Khan's inquest should be heard with those of the two victims.

88. It is clear that Khan's inquest must be heard with a jury. His death resulted from acts of police officers in the performance of their duties. Section 7(2)(b)(i) of the CJA provides that an inquest into such a death must be heard with a jury. No IP has made submissions to the contrary.

89. As regards the inquests of Jack Merritt and Saskia Jones, CTI made submissions that a jury must be summoned for Jack Merritt's inquest, pursuant to section 7(2)(c) of the CJA, because there is reason to suspect that the incident in which he died was "notifiable" under the statute within the meaning of section 7(4). This submission is agreed by the CoLC, WMP, Staffordshire Police and Cambridge University. No IP has made any submission to the contrary.

90. I accept the submission of CTI that a jury must be summoned to hear Jack Merritt's inquest for the reasons they give, which are as follows.

a. Section 7(2)(c) requires a jury to be summoned for an inquest if the coroner has reason to suspect that the death was caused by a notifiable accident. Section 7(4) provides that an accident is notifiable if notice of it is required under any Act to be given to a government department, an inspector or officer of such a department or an inspector appointed under section 19 of the Health and Safety at Work etc. Act 1974. As set out below, the category of "notifiable accident" encompasses some forms of deliberate fatal assault.

b. Regulation 6(1) of the Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 2013 states that a report must be made where "any person dies as a result of a work-related accident". An accident reportable under these Regulations is a notifiable accident within the meaning of section 7 of the CJA. Regulation 2(1) provides that the word "accident" in this context includes an act of non-consensual physical violence done to a person at work, and that the expression "work-related accident" means "an accident arising out of or in connection with work". Regulation 2(2) states that "any reference to a work-related accident… includes an accident… attributable to – (a) the manner of conducting an undertaking". HSE guidance indicates that an accident should be regarded as work-related if any of the following played a significant role: (i) the way the work was carried out; (ii) any machinery, plant, substances or equipment used for the work; or (iii) the condition of the site or premises where the accident happened.

c. In this case, Jack was the victim of an act of non-consensual physical violence while he was at work. There is at least reason to suspect that the fatal incident was attributable to the manner in which his employer's undertaking was conducted. Three considerations in particular lead to that conclusion: (i) that Jack's work brought him into contact with dangerous individuals such as Khan; (ii) that Khan's presence at the event was due to arrangements made by Learning Together for his attendance; and (iii) that Khan was able to bring knives into the venue because those attending were not scanned for metallic items. In making those points, I am

not making criticisms, but simply identifying features which at least arguably made this a notifiable incident.

91. Given my decision that the inquest of Saskia Jones will be heard with that of Jack Merritt, it follows that Saskia Jones' inquest should also be heard with a jury. The CoLC and the family of Saskia Jones make the submission that a jury should be empanelled for Saskia Jones' inquest in any event (although they rely on two different bases for that submission). In practice, as is recognised on behalf of Saskia Jones' family, it is not necessary for me to resolve the question of whether Saskia Jones' inquest would independently require the summoning of a jury. It will in any event be heard with a jury because it will be heard with Jack Merritt's inquest and that inquest must be heard with a jury.

Witnesses

92. There is general agreement as to the proposals of CTI that I should adopt the following procedure in selecting witnesses for the main hearings:

    a. Once disclosure has been given of the statements of key witnesses, the Inquests Team will circulate witness lists to all IPs.

    b. IPs may make representations on those lists in writing addressed, in the first instance, to the Inquests Team. The Inquests Team may then revise proposals for witnesses to be called.

    c. Where there remain issues which are not resolved by that process, I shall make a decision at a future pre-inquest hearing.

    d. Once the selection of witnesses has been completed, timetables for the hearing will be sent to IPs.

93. CTI have also made submissions regarding expert witnesses. It is likely that the inquests will receive evidence from a number of experts including:

    a. forensic pathologists, to explain the findings of post-mortem investigations and cause(s) of death in each case;

b. forensic scientists, to address the analytical work on items such as the knives used by Khan;

c. a firearms / ballistics expert on the shots fired at Khan and the ammunition used; and

d. one or more explosives and ordnance experts to explain the construction of Khan's fake suicide vest and how authentic it appeared.

94. I shall make a direction that, if any IP wishes to propose the instruction of other experts in any discipline, that should be done as soon as possible. It is important that any IP intending to propose the instruction of an expert does so without delay, since late suggestions of expert evidence have the capacity to disrupt the preparation for a significant inquest hearing.

Pre-Inquest Hearings

95. It is my intention that there should be at least one pre-inquest hearing, and preferably more than one. When it is possible to schedule a hearing, Solicitors to the Inquests will inform all IPs and give notice to media organisations.

HH Judge Lucraft QC

Chief Coroner of England and Wales

5 June 2020