

THE WESTMINSTER BRIDGE TERRORIST ATTACK

22ND MARCH 2017

OPERATION CLASSIFIC

A REPORT ON THE USE OF TERRORISM LEGISLATION

by

Max Hill QC

Independent Reviewer of Terrorism Legislation

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EXECUTIVE SUMMARY

1. On Wednesday 22 March 2017, 52-year old British-born Khalid Masood drove a hired vehicle across Westminster Bridge in the direction of the Palace of Westminster. He mounted the pavement twice colliding with pedestrians and then a third time crashing into the east perimeter gates of the Palace of Westminster. Masood then exited the car and ran into the vehicle entrance gateway of the Palace of Westminster, Carriage Gates, where he attacked and fatally injured PC Keith Palmer using a knife. Masood was shot at the scene by armed police protection officers who were in Parliament at the time of the attack. The whole incident lasted approximately 82 seconds. The attack resulted in 29 people injured and 6 fatalities.
2. The ensuing police investigation was named Operation Classific. Counter-terrorism policing officers arrested and detained 12 people in the course of the investigation. All were released without charge. I have been provided with the full details of all who were arrested, but I am unable to publish names which are not already in the public domain, because none have been charged with any offence. A summary of these individuals, in the order in which they were arrested, is as follows:

| ID | Gender | Age | Relationship to Masood | Total detention time (days:hours:mins) |
|-----------|--------|-----|--------------------------------|--|
| Subject A | Male | 27 | Address linked to Masood | 1:19:10 |
| Subject B | Female | 26 | Address linked to Masood | 1:19:10 |
| Subject C | Male | 28 | Address linked to Masood | 1:19:20 |
| Subject D | Female | 39 | Relative | 0:21:54 |
| Subject E | Male | 26 | Address linked to Masood | 1:18:28 |
| Subject F | Male | 24 | Other address linked to Masood | 1:16:47 |
| Subject G | Female | 20 | Other address linked to Masood | 1:16:41 |
| Subject H | Male | 58 | Associate | 6:11:50 |
| Subject I | Male | 27 | Relative | 1:20:43 |
| Subject J | Male | 35 | Professional relationship | 0:10:51 |
| Subject K | Female | 33 | Professional relationship | 0:7:58 |
| Subject L | Male | 30 | Associate | 6:00:47 |

Subject A, Subject B, Subject C and Subject E were Hungarian nationals. Subject J and Subject K were Saudi Arabian nationals. All others were British citizens.

3. I conducted a 'snapshot review' of the arrests, detention and release of all twelve persons in Operation Classific. I conclude, in summary, as follows:
 - a. The police and emergency services were confronted by a terrorist incident which claimed multiple lives and which occurred mid-afternoon in central London. An immediate and comprehensive criminal investigation was required by the police, who had to work with the facts and materials presented to them at the scene, namely the abandoned hire car and its contents.
 - b. It is important to review Operation Classific contemporaneously, in other words placing oneself in the position of police commanders on 22nd March 2017 and in the days which followed. Whilst the physical aftermath of the deadly terrorist attack was managed by all of those services who rushed to Westminster Bridge, the Metropolitan Police team were required to make quick decisions to unearth any and all evidence which might be relevant to Masood's attack planning. Whilst hindsight has its place, it is secondary to understanding in-the-moment decisions taken by police officers as the criminal investigation rapidly unfolded.
 - c. The use of arrest and detention powers under the Terrorism Act 2000 nonetheless requires careful scrutiny. A fast-moving investigation such as this one required ongoing assimilation of information as it came to light, and quick reaction to successive events including the discovery of persons at premises known to have been associated with Masood. In the event, twelve people were lawfully arrested and detained, in most cases under the provisions of the Terrorism Act 2000. Their respective detention times varied widely. All were released, and none were charged with any offence.
 - d. The fact that twelve people were arrested and detained, and none were charged with any offence, does not imply any criticism of this investigation. Whilst the police must always strive to manage counter-terrorism investigations appropriately, and must strive to reduce pre-charge detention time in every case to no more than a necessary minimum, it is a feature of fast-moving, modern investigations into serious terrorism offences that arrest and detention powers will be used and will not lead in every case to a positive charging decision.
 - e. Operation Classific was fast, efficient and comprehensive. Whilst lessons can always be learned from scrutinizing the arrest and detention phase of such an

investigation, I have concluded on the basis of the information and materials provided to me that there was a reasoned and proportionate use of the relevant terrorism legislation in this case. I have summarised my recommendations in Chapter 4 of this report.

1. INTRODUCTION

Purpose of this report

- 1.1. The UK, in fact England, last year suffered the worst combination of terrorist attacks for many years. Since March 22nd 2017, we have all lived through the pain of witnessing murderous attacks at Westminster Bridge, Manchester Arena, and London Bridge followed by Borough Market. The attack outside Finsbury Park Mosque on 19th June marked the fourth in this short list of major terrorism events, and there was a serious attempted attack at Parsons Green on 15th September.
- 1.2. I succeeded my distinguished predecessor David Anderson QC on 1st March 2017. Just in time to witness the horror that unfolded on Westminster Bridge exactly three weeks later. My task is to annually review our terrorism legislation, essentially the Terrorism Acts 2000 and 2006, together with the Terrorism Prevention and Investigation Measures (TPIM) Act 2011 and the Terrorist Asset Freezing Act (TAFZA) 2010. My first annual report into the operation of the Terrorism Acts in 2016 was delivered to the Home Office in November 2017 and published in January 2018. That report does not cover the events of 2017 which will be the focus of the next Annual Report.
- 1.3. In the interim, this report reviews the use of the legislation in the aftermath of the Westminster Bridge attack: the use of arrest and detention powers, together with searches conducted and any ancillary activity which formed the chronology of the investigation. My review performs two key functions; firstly, to comment upon and commend the appropriate use of statutory powers by the Metropolitan Police Service (MPS) and others during a time of great strain after a major terrorist attack in the heart of London, and secondly to offer any **recommendations** that I might feel useful or necessary in considering the extent and limitations of those statutory powers. The review also provides members of the public with an insight into use of these powers. There is a strong public interest in understanding what happens during police investigations into terrorist events, and therefore a strong interest in what actually happened in the aftermath of 22nd March 2017.
- 1.4. With the exception of Westminster Bridge, all attacks in 2017 are subject to ongoing police investigations and possible criminal proceedings (though the trial of Darren Osborne the perpetrator of the attack outside Finsbury Park Mosque has recently

concluded).¹ For this reason, I will not be discussing any matter relating to the other incidents in this report. The Westminster Bridge investigation remains active, however it is not subject to pending or ongoing criminal proceedings and so it is open to me to conduct a review. I am conscious that inquest proceedings are ongoing, and that there has been a review of intelligence material conducted by David Anderson QC. As far as practicably possible, my review will not stray into those areas (subject to adoption of the intelligence picture relating to Masood before 22nd March 2017, for which I rely upon and repeat the relevant section of the Anderson report, below).²

Operation Classific

- 1.5. On Wednesday 22 March 2017, 52-year old British-born Khalid Masood drove a hired vehicle across Westminster Bridge in the direction of the Palace of Westminster. He mounted the pavement twice colliding with pedestrians and then a third time crashing into the east perimeter gates of the Palace of Westminster. Masood then exited the car and ran into the vehicle entrance gateway of the Palace of Westminster, Carriage Gates, where he attacked and fatally injured PC Keith Palmer using a knife. Masood was shot at the scene by armed police protection officers who were in Parliament at the time of the attack. The whole incident lasted approximately 82 seconds. The attack resulted in 29 people injured and 6 fatalities.
- 1.6. The ensuing police investigation was named Operation Classific. Counter-terrorism policing officers arrested and detained 12 people in the course of the investigation. All were released without charge.
- 1.7. Following the incident, COBR (Cabinet Office Briefing Room) met in the immediate aftermath of the Westminster Bridge attack at the following times:

The Prime Minister chaired a COBR meeting at 19:30 on Wednesday 22nd March 2017

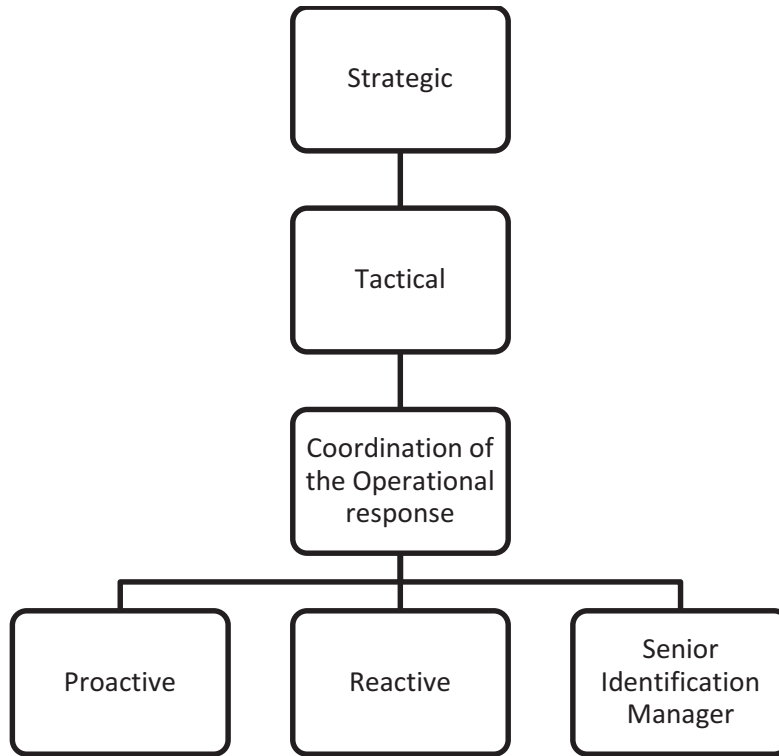
The Deputy National Security Advisor (DSNA) chaired an Officials COBR meeting at 11:45 on Thursday 23rd March 2017

The DNSA chaired a further Officials COBR meeting at 10:00 on Friday 24th March 2017

¹ I intend to review the investigation relating to the Finsbury Park incident as soon as possible.

² David Anderson QC, *Attacks in London and Manchester: Independent Assessment of MI5 and Police Internal Reviews*, December 2017.

1.8. Once the criminal investigation was underway, the Counter-Terrorism (CT) command structure for Operation Classic was as follows:



The Strategic, Tactical and Operational lead officers represent a supervisory chain of command, who sat above the Reactive lead, who was the principal decision-maker in relation to the course of the criminal investigation.

The Proactive lead authorised the arrest decisions taken at the various locations to which the criminal investigation led the Reactive SIO and his team.

Threat level following the attack

1.9. In the UK, the national threat level for international terrorism is set and assessed, not by the Government but by JTAC (Joint Terrorism Analysis Centre). In March 2017, the threat level was assessed to be Severe, which is one level below the highest, Critical. JTAC did not elevate the threat level from Severe to Critical after the Westminster Bridge attack, whereas this was done for a period of approximately 48 hours very shortly after the Manchester Arena attack, and for a like period after the discovery of a partially-detonated explosive device on a London Underground train at Parsons Green.

In my Annual Report published January 2018, I have recommended that JTAC in future should consider including domestic extremism in setting the national threat level.³

Methodology of this review

1.10. The methodology of this review closely follows occasional 'snapshot reviews' conducted by my predecessors Lord Carlile and David Anderson.⁴

1.11. The Counter Terrorism Command SO15 provided me with detailed written reports of the incident and investigation. This included information on the arrest, detention and release of all twelve subjects. I was also provided with the police custody records for each subject and I reviewed transcripts of police interviews with them all. I met with senior police officers involved: Commander Haydon and two Senior Investigating Officers, both holding the rank of Detective Superintendent.⁵

1.12. I attempted to make contact with the persons detained, through their legal representatives for comment from them on their time in custody.⁶ This was unsuccessful, to the extent that none of the 12 came forward to make contact with me. They are under no such obligation whatsoever. However, I was able to gain an insight into their time in custody through custody visit reports by the Independent Custody Visitors Association (ICVA). ICVA volunteers conduct visits to police custody suites

³ A recommendation also made in Anderson's report, December 2016. I understand that this recommendation has been accepted.

⁴ See, for example, the review of Operation GIRD, an investigation of individuals suspected of involvement in a plot to harm Pope Benedict XVI during his visit to the United Kingdom in 2010. D. Anderson, *Operation GIRD: Report following review*, May 2011.

⁵ Names redacted for security reasons.

⁶ Dear XXX

I was appointed as the Independent Reviewer of Terrorism Legislation on 1st March 2017. Along with my Annual Review of the operation of the Terrorism Acts, I have undertaken to review and report on the operation of the terrorism legislation in respect of Operation Classific, the investigation that followed the Westminster Bridge attack in London on 22nd March 2017.

This means that I am looking at the lawful and proportionate use of police powers whilst conducting this investigation, limited to the use of the terrorism statutes. Specifically, I am including the use of section 41 of the Terrorism Act 2000 and the consequences for those in custody pre-charge. To that end, I am seeking comment from individuals detained as part of this investigation on their experiences in custody.

Police custody records which I have reviewed indicate that you represented XXX, who was detained as part of Operation Classific. I would be grateful if you could make contact with your client and request either that they meet with me, or provide me with written comment on their experience, if they wish to do so. This is of course on a purely voluntary basis, but I welcome any comment your client may wish to provide.

Please contact my Legal Assistant Fatima (copied), if you require any further information.

I look forward to hearing from you.

Best wishes
Max Hill Q.C.

and see Terrorism Act detainees. The custody visitors confirm and record that each detainee has knowledge of their rights and entitlements and report on the health and welfare of detainees, their conditions and facilities and any special needs/issues they raise.

1.13. I have liaised with HM Chief Coroner, HHJ Mark Lucraft QC, now the Coroner in charge of the Inquests touching on the deaths of those at Westminster Bridge. I have sought to ensure that my report into the use of Terrorism Act 2000 powers will not impinge upon the scope of the Inquests.

1.14. I could not have undertaken the work necessary for this report without the fulsome cooperation of many, specifically including the investigation team who ran Operation Classific. I am grateful to Commander Haydon (Head of SO15 Counter Terrorism Command for London and International Operations), who provided detailed briefings, and officers and staff of the Counter Terrorism Policing HQ at MPS New Scotland Yard, who patiently sourced and copied the documents and other information which I required. My Legal Assistant Fatima Jichi has been invaluable in assimilating the core materials.

2. ARRESTS AND SEARCHES

Powers of arrest

2.1. There are two main powers of arrest available to the police in cases relating to terrorism:

- i. **Section 24 of the Police and Criminal Evidence Act (PACE) 1984** empowers a police officer to arrest without warrant a person whom he or she has reasonable grounds for suspecting has committed, is committing or is about to commit an offence.
- ii. **Section 41 of the Terrorism Act (TACT) 2000** empowers a police officer to arrest without warrant a person whom he or she reasonably suspects to be a terrorist. A 'terrorist' is defined as a person who has committed specified terrorist offences or a person who "is or has been concerned in the commission, preparation or instigation of acts of terrorism". Therefore, an officer need not have a specific offence in mind at the time a section 41 arrest is made, unlike an arrest under PACE. Rather, what is required is a reasonable suspicion that a person is or has been concerned in (the commission, preparation or instigation of) acts of terrorism.

2.2. Arrest in relation to terrorism-related activity does not have to be carried out under the TACT regime, and in practice the police often use PACE arrest powers. The issues of how powers are selected impacts upon the consequences in terms of oversight and detention periods as well as bail before charge; the latter being available in respect of PACE cases, but not available in respect of TACT cases. My predecessor recommended amendment of the TACT regime to permit bail before charge, but that recommendation has not been accepted.⁷

2.3. In the year ending September 2016, there were 40 arrests under s41 Terrorism Act 2000 out of a total of 259 arrests for terrorism-related offences. The majority of arrests (85%) therefore did not use TACT powers and were instead under PACE.⁸ By contrast, the year ending September 2017 showed 400 arrests, 148 of which were under s41 of

⁷ *The Government Response to the Annual Report 2015*, July 2017, p8.

⁸ Home Office, *Operation of police powers under the Terrorism Act 2000, quarterly update to September 2016: data tables*, 15 December 2016, table A.01.

TACT.⁹ This was the highest number of terrorism-related arrests in a year since the data collection began in 2001 and the highest number of TACT arrests since the year ending 30 September 2007. I shall reflect on this sharp increase in the next annual report, but it is due in large part to two factors: firstly, the investigations into the terrorist attacks in 2017, in particular the Manchester Arena bombing and London Bridge attack, and secondly, the rising number of arrests on suspicion of extreme and far right wing activity.¹⁰

Powers of search and seizure

2.4. The following search powers were used by officers in this investigation:

- i. Under **Schedule 5 of the Terrorism Act 2000**, a justice of the peace may issue a warrant authorising a police officer to enter, search premises and any person found there, and to seize and retain any relevant material for the purposes of a terrorist investigation. A justice must be satisfied that the warrant is sought for the purposes of a terrorist investigation, that there are reasonable grounds for believing there is material on the premises which is likely to be of substantial value to a terrorist investigation, and that the issuing of a warrant is likely to be necessary in the circumstances of the case. Material is relevant if the officer has reasonable grounds for believing that it is likely to be of substantial value to a terrorist investigation and it must be seized in order to prevent it from being concealed, lost, damaged, altered or destroyed.
- ii. Under **section 42 of the Terrorism Act 2000**, a justice of the peace may issue a warrant authorising a police officer to enter and search premises for the purpose of arresting a person. A justice must be satisfied that there are reasonable grounds for suspecting that a person whom the officer reasonable suspects is or has been concerned in the commission, preparation or instigation of acts of terrorism is to be found there.

⁹ Home Office, *Operation of police powers under the Terrorism Act 2000 and subsequent legislation: Arrests, outcomes, and stop and search, Great Britain, quarterly update to September 2017*, Statistical Bulletin 24/17, December 2017.

¹⁰ *Ibid.* 12 arrests made in connection with the attack on Westminster Bridge and Westminster Palace (22 March 2017), 23 arrests in connection to the terrorist attack in Manchester (22 May 2017), 21 arrests in connection to the London Bridge attack (3 June 2017), 1 arrest made in connection to the Finsbury Park Mosque attack (19 June 2017), 7 arrests in connection with the Parsons Green attack (15 September 2017).

- iii. Under **section 32 of the Police and Criminal Evidence Act 1984**, a police officer may search an arrested person if he or she has reasonable grounds for believing that the arrested person may present a danger to himself or others. If the offence for which a person has been arrested is an indictable offence, the officer is also empowered to enter and search any premises in which the arrested person was when arrested or immediately before he was arrested for evidence relating to the offence.

Actions leading to the arrests and searches

- 2.5. My predecessor David Anderson QC conducted an independent assessment of MI5 and police internal reviews of the attacks in London and Manchester, which led to the publication of an unclassified report in December 2017.¹¹ Paragraphs 2.11 to 2.29 inclusive are directly relevant to Westminster Bridge and Masood, and I am grateful for permission to repeat them here, in Annex A to this report. David Anderson's report covers the intelligence leading up to the events on 22nd March only.
- 2.6. In order to follow and to review the progress of Operation Classific, I have been given access to the Proactive SIO's record of decisions to support executive action, meaning his contemporaneous account of each arrest and search decision as they were authorised and carried out.
- 2.7. On the afternoon of 22 March, information the police had in order to commence the investigation consisted of documents and items found within the vehicle Masood had used in the attack. Correspondence from the car led to an address in Birmingham. Investigation into the car hire led to another address in Birmingham. Masood's telephone was recovered from the vehicle and was also available to be analysed, which led to several contacts being identified. Although the telephone was unlocked later on in the investigation, in other words once removed from the scene and analysed, it contained notifications which revealed some of the content of the messages received. Financial information gathered by the investigation revealed that Masood had stayed at a hotel in Brighton the night preceding the attack as well as a second hotel days before the attack.

¹¹ David Anderson QC, *Attacks in London and Manchester: Independent Assessment of MI5 and Police Internal Reviews*, December 2017.

2.8. This emerging picture dictated the course of the investigation and led to arrests and searches to which I will turn in chronological order. The next section of this report will summarise only the data available at the time each individual was arrested. Other evidence may have come to light after the arrest was made but will be covered later. The point here is to see, without the power of hindsight, the justification for each arrest using only the information known to the authorising officer.

Timeline of arrests and searches

2.9. I have been provided with the full details of all 12 individuals who were arrested in the course of the investigation, but I am unable to publish names which are not already in the public domain, because none have been charged with any offence. A summary of these individuals, in the order in which they were arrested, is as follows:

| ID | Gender | Age |
|-----------|---------------|------------|
| Subject A | Male | 27 |
| Subject B | Female | 26 |
| Subject C | Male | 28 |
| Subject D | Female | 39 |
| Subject E | Male | 26 |
| Subject F | Male | 24 |
| Subject G | Female | 20 |
| Subject H | Male | 58 |
| Subject I | Male | 27 |
| Subject J | Male | 35 |
| Subject K | Female | 33 |
| Subject L | Male | 30 |

Subject A, Subject B, Subject C and Subject E were Hungarian nationals. Subject J and Subject K were Saudi Arabian nationals. All others were British citizens.

2.10. All subjects of Operation Classific, with the exception of Subject D and Subject K, were arrested under the Terrorism Act 2000. Subject D and Subject K were arrested under PACE. Arresting under PACE provides the possibility of bail without charge, which is not a feature of the TACT 2000 regime.

2.11. Police obtained warrants under s42 TACT 2000 to enter and search the home address of Subject J and Subject K, and the address of the ex-partner of Subject L, for the purpose of arresting them. The search power in s32 PACE was used to search the vehicle in which Subject A, Subject B, Subject C and Subject E were arrested. All other search warrants were obtained under Schedule 5 TACT.

First day of the investigation: 22/03/2017

2.12. Correspondence found in the car revealed an address in Birmingham that Masood had previously used to hire a vehicle. A search warrant was obtained for this address. Before it was granted, three residents were observed to leave the premises. A decision was made by officers on the ground to arrest these individuals (Subject A, Subject B, Subject C). The justification for the arrest was that at that early stage in the investigation, it was not known whether Masood had acted alone. A fourth person (Subject E) was later arrested at the address. All four persons were taken to a TACT suite in West Midlands.

Subject A

Arrested at 2145

Arrived at Custody Suite at 2259

Subject B

Arrested at 2155

Arrived at Custody Suite at 2300

Subject C

Arrested at 2155

Arrived at Custody Suite at 2318

Subject E

Arrested at 2252

Arrived at Custody Suite at 2348

2.13. Notifications on Masood's phone showed missed calls from an individual (Subject D). Communications data showed contact between the two the day before the incident and attempted contact shortly afterwards. Subject D contacted the police at 1744

stating that she suspected the individual involved in the attack was her relative, based on the images on the media and a message she received from Masood moments before the attack. There was no evidence at the time linking her to the attack itself, and she was arrested under PACE. Police justification for this arrest was her association with Masood and the extent of contact she had with him around the time of the attack, and to allow them to question her in relation to her possible involvement. She was arrested at her home address in London and taken to a TACT suite in London.

Subject D

Arrested at 2210

Arrived at Custody Suite at 0230 on 23/03/17

- 2.14. The hotel room in Brighton where Masood spent the night before the attack was searched.

Second day of the investigation: 23/03/2017

- 2.15. The investigation revealed that Masood used an address in Birmingham to hire the vehicle used in the attack. This address was searched by the police. There was no initial intention to arrest the residents of this multi-occupancy premises, the individuals were to be treated as Significant Witnesses. However, a decision to arrest two individuals (Subject F and Subject G) was made by officers on the ground, with the justification that they were obstructive and evasive to questions. Both were taken to a TACT suite in West Midlands. A third person at this address was not arrested, but was taken as a witness to a nearby police station to provide a statement. In his statement, he stated that he did not know Masood personally, only in passing as they were in neighbouring rooms.

Subject F

Arrested at 0020

Arrived at Custody Suite at 0120

Subject G

Arrested at 0020

Arrived at Custody Suite at 0105

- 2.16. A vehicle parked outside Subject D's address, belonging to another individual present when she was arrested, was searched by consent.
- 2.17. An address linked to the telephone number Masood provided to hire the vehicle he used in the attack was searched
- 2.18. Another hotel room in Brighton at which Masood stayed a few days before the attack was searched.
- 2.19. The home address of Subject D in London was searched.
- 2.20. Notifications on Masood's handset showed a number of missed calls from an individual (Subject H). Analysis of communications data showed the person had been in contact with Masood 17 times in the month leading up to the attack. Information from Subject D suggested Subject H was due to travel imminently. Police justification for the arrest was that the nature and context of the relationship between the two was not known, and his travel plans provided sufficient grounds to suspect that Subject H may have been involved/complicit with the attack. He was arrested at his address in Birmingham and transported to a TACT Custody Suite in London. His home address was searched.

Subject H

Arrested at 0650

Arrived at Custody Suite at 1030

- 2.21. The home address of relatives of Masood was searched.
- 2.22. The home address of Subject A, Subject B, Subject C and Subject E in Birmingham was searched.
- 2.23. A garage in London rented and used as a storage facility by Subject D, to which Masood had access, was searched.
- 2.24. Two relatives of Masood were initially treated as witnesses. Police asked to examine their phones, one of them (Subject I) declined, indicating that he had to go to work and needed his phone. On examination of Masood's (still locked) phone, police found notifications containing the following messages from Subject I:

4.18pm 22/03/17 'Walaikumasalam. Khalid. I will take care of her inshallah. Ameen. Please give us a call when possible.'

4.22pm 22/03/17 'May Allah grant you peace and honour Ameen.'

6.43pm 22/03/17 'Khalid... called you and no answer..what is going on? We just knocked for you but no answer..what is your house no?'

He was later arrested upon leaving work in Birmingham and transported to London for detention. His address was searched.

Subject I

Arrested at 2120

Arrived at Custody Suite at 2306

Third day of the investigation: 24/03/2017

2.25. Information from financial enquiries identified that Masood received a payment of £1,600 into his bank account on 31/01/17, then a further £500 on 28/02/17 from an individual (Subject K) with the reference 'friend'. This individual and her partner were initially placed under surveillance as SOIs (Subjects of Interest, a formal classification which is explained in David Anderson's report, referred to above) and subsequently arrested. The justification for the arrest included that the reference 'friend' inferred a clear relationship. Subject K was arrested under PACE because she was apprehended upon leaving hospital and PACE arrest allowed provision for bail in the event she was not fit for detention. Their home address was searched.

Subject J

Arrested at 0011

Arrived at Custody Suite at 0103

Subject K

Arrested at 0958 (arrested under PACE)

Arrived at Custody Suite at 1200

2.26. The home address of Subject I in Birmingham was searched.

- 2.27. The vehicle Subject A, Subject B and Subject C were in when they were arrested was searched.
- 2.28. Three vehicles parked outside the home address of Subject H when the police arrived were searched.
- 2.29. Investigations revealed that shortly before the attack, Masood had sent a PDF document titled 'Jihad' to numerous contacts. This document included a picture of Masood on the front page and extracts from the Quran and other Islamic sources that he claimed to support Jihad. The investigation led to an associate of Masood who had received the Jihad PDF. This individual's home address in Birmingham was searched. Two vehicles parked outside were also searched. The associate was not arrested, but treated as a witness. He gave a detailed statement to the police about his relationship and contact with Masood and associates of Masood, and a further two statements with additional information on this. It was initially thought that this PDF was sent to specific individuals who may be of interest, but it quickly transpired to the police that a large number of individuals received this message and it wasn't targeted at specific associates.

Fourth day of the investigation: 25/03/2017

- 2.30. A close associate of Masood (Subject L) was identified by the investigation as having received religious direction from Masood, and recently becoming more extreme and talking about Jihad. There was also a concern he was radicalising a female. Call data showed he had been in contact with Masood in the days/weeks leading up to the attack. Further information gathered included cell site analysis and ANPR (Automatic Number Plate Reader technology, used to trace the movement of vehicles on public roads) data which indicated Subject L was in Westminster earlier in March, though it was not clear if this was related to attack planning. A decision to arrest him was made. A warrant for the search of a bail address given previously by Subject L was not executed as the manager of the premises confirmed the subject did not live there. His former home address was searched, Subject L was not found at the address. He was later arrested on 26/03/2017.
- 2.31. A vehicle belonging to a relative of Masood (which was recently purchased from him) was parked in the vicinity of the home address of Subject I and was searched.

2.32. A warrant for the search of Subject I's work place, where he was arrested, was not executed.

2.33. The home address of Subject J and Subject K was searched.

2.34. The home address of an associate of Masood who had been in phone contact with him the day before the attack was searched. The individual was not arrested, but provided two witness statements to the police detailing his relationship with Masood, the phone contact which occurred before the attack and his reaction to the attack.

Fifth day of the investigation: 26/03/2017

2.35. Subject L was arrested in Birmingham during a search of his partner's address and transported to London. A vehicle linked to Subject L was also searched.

Subject L

Arrested at 1135 – Birmingham

Arrived at London Custody Suite at 1350

2.36. Subject L's mobile phone was sited with the ANPR of a vehicle which was searched, in situ, upon locating the vehicle. The vehicle was taken to a garage where a detailed search was carried out on 29/03/17.

Safety interviews

2.37. Persons arrested must not ordinarily be interviewed about the relevant offence except at a place designated for detention (PACE Code H, para 11.2 for TACT arrests and Code C, para 11.1 for PACE arrests). However, it is sometimes necessary to interview persons immediately upon arrest, where a delay in transporting them to a police station would be likely to:

i. lead to:

- interference with, or harm to, evidence connected with an offence;
- interference with, or physical harm to, other people; or
- serious loss of, or damage to, property;

ii. lead to alerting other people suspected of committing an offence but not yet arrested for it; or

iii. hinder the recovery of property obtained in consequence of the commission of an offence.

Interviewing in any of these circumstances must cease once the relevant risk has been averted or the necessary questions have been put in order to attempt to avert that risk.

2.38. Safety interviews can therefore be carried out without a solicitor present. Schedule 8 TACT (and section 58 PACE for PACE arrests) allows the right to have a solicitor present at interviews to be delayed in such circumstances. As legal advice has been delayed, Annex C to PACE Code H (similar provisions are found in Code C for PACE arrests) provides that 'the court or jury may not draw any adverse inferences from their silence.'¹² The appropriate caution where urgent safety interviews are carried out is therefore: 'You do not have to say anything but anything you do say may be given in evidence.'

2.39. Safety interviews are used very rarely, only in exceptional cases. In this investigation, four safety interviews were carried out: Subject A, Subject B, Subject D and Subject L. In each case, the correct caution was given [though in the case of Subject L this was not recorded in the Officer's witness statement]. In respect of Subject A and Subject B, the questions asked, all of which I have reviewed, were exclusively related to whether there were any materials, devices, objects/weapons in the vehicle they were arrested in that may cause serious harm/injury or loss of life to any person. Subject A answered no to all questions. It was clear to the arresting officer that Subject B did not fully understand what was going on, she did not respond to questions. This was in slight contrast to the safety interview with Subject D, Masood's relative, where more pointed questions were asked about knowledge of Masood and the incident. She was fully cooperative with the police and answered all questions. Subject L was asked briefly about any information he may have concerning anyone involved in the attacks.

Seizures

2.40. A total of 584 exhibits were seized from the addresses of those arrested during the investigation. Of these, 256 were high-tech devices. These figures are not particularly unusual in modern investigations, but devices in this quantity require resources and time for thorough analysis.

¹² This is different to the caution given in interviews carried out in police stations or during Schedule 7 examinations, where a court can draw inference from silence. The Home Secretary has accepted David Anderson QC's recommendation that no use is made of answers given during Schedule 7 examinations and we are expecting legislation to confirm this.

Time from arrest to arrival at custody suite

2.41. The time between arrest and arrival at a police custody suite for each person is summarised below:

| | Place of arrest | Time of arrest | Custody Suite | Time of arrival |
|------------------|------------------------|-----------------------|----------------------|------------------------|
| Subject A | Birmingham | 22-03-2017 2145 | West Midlands | 22-03-2017 2259 |
| Subject B | Birmingham | 22-03-2017 2155 | West Midlands | 22-03-2017 2300 |
| Subject C | Birmingham | 22-03-2017 2155 | West Midlands | 22-03-2017 2318 |
| Subject D | London | 22-03-2017 2210 | London | 23-03-2017 0230 |
| Subject E | Birmingham | 22-03-2017 2252 | West Midlands | 22-03-2017 2348 |
| Subject F | Birmingham | 23-03-2017 0020 | West Midlands | 23-03-2017 0120 |
| Subject G | Birmingham | 23-03-2017 0020 | West Midlands | 23-03-2017 0105 |
| Subject H | Birmingham | 23-03-2017 0650 | London | 23-03-2017 1030 |
| Subject I | Birmingham | 23-03-2017 2120 | London | 23-03-2017 2306 |
| Subject J | Manchester | 24-03-2017 0011 | Manchester | 24-03-2017 0107 |
| Subject K | Manchester | 24-03-2017 0958 | Manchester | 24-03-2017 1200 |
| Subject L | Birmingham | 26-03-2017 1135 | London | 26-03-2017 1350 |

2.42. Most subjects arrived in custody within an hour and 15 minutes of being arrested. The investigation team explained to me that Subject D's delay was due to an extensive safety interview conducted in her home, as well as making arrangements for rehousing the family, including children, for the purpose of searching the flat. Subject H, Subject

I and Subject L's delays were due to them being transported from Birmingham to a TACT suite in London.

2.43. The placement of TACT custody suites nationwide, coupled with the organisation of counter-terrorism policing in such a way that there are flexible working arrangements between national command under NCTPOC and regional CTUs means as I understand it that case by case decisions can be made as to the location in which any TACT detainee will be held, regardless of their place of arrest. This investigation demonstrates that some detainees were deemed to be of greater significance to the London-centric nature of the Westminster Bridge attack, therefore those individuals were transported to the London TACT suite.

2.44. I commend the interoperability of CT policing nationwide, a factor which clearly assisted Operation Classific. However, I **recommend** that greater thought and clarity be given to the question whether and when it is necessary to transport a detainee sometimes hundreds of miles from their place of arrest. In my Annual Report published January 2018 I drew attention to the special nature of solitary confinement in TACT custody suites, and to the findings of the April 2017 CPT report (commissioned by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment).¹³ This is all the more important when, albeit with the benefit of hindsight, we see a significant number of individuals who are detained but ultimately released without charge.

¹³ *Report to the Government of the United Kingdom on the visit to the United Kingdom carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT)*, Strasbourg, 19 April 2017.

3. DETENTION

Powers of detention

- 3.1. Under PACE, a person may be detained without charge for up to 24 hours. A police officer of the rank of superintendent or above may authorise detention for up to 36 hours where this is necessary to secure or preserve evidence relating to an offence for which he is under arrest or to obtain such evidence by questioning him. Detention beyond 36 hours must be approved by a Judge where the court is satisfied that there are reasonable grounds for believing that the further detention of the person to whom the application relates is justified.
- 3.2. A person arrested under section 41 of the TACT 2000, may be detained without charge for up to 48 hours without judicial intervention (section 41(3)). If detention is to extend beyond 48 hours it must be extended by a Judge, who grants a Warrant of Further Detention (WOFD). The extension may be for up to but no more than a total of 14 days (Schedule 8, section 41(5) and (6)). The 14 day maximum can theoretically be extended, only by a High Court Judge (section 23 TA 2006), to 28 days.
- 3.3. 28-day detention, the longest technically permissible by law, is currently dependent upon an order-making power vested in the Home Secretary which when used permits longer detention in any terrorism detention case, but the power is subject to cases within a maximum period of three months. The power lies in a Draft Detention of Terrorist Suspects (Temporary Extension) Bill, which is the current receptacle for the extra detention power enabled by the TA 2006 since.¹⁴ The Home Secretary has not to date invoked the Draft Bill. Were that ever to happen, we would find ourselves in what the former Home Secretary, now the Prime Minister, described as 'exceptional circumstances' (Hansard (HC) vol 254 col 210 (1/3/11)) in which the ordinary maximum period of 14 days is said to be inadequate.
- 3.4. The maximum period of detention under TA 2000 stood at seven days until January 2004, 14 days until July 2006 and 28 days until 25 January 2011.¹⁵ Attempts by the last Government in 2005 and 2008 to extend pre-charge detention limits further, first to 90 days and then to 42 days, were withdrawn after defeats in Parliament. Since 25

¹⁴ Home Office, Draft Detention of Terrorist Suspects (Temporary Extension) Bills (Cm 8018, London, 2011).

¹⁵ D. Anderson, *The Terrorism Acts in 2011*, June 2012.

January 2011, the maximum period of detention has stood at 14 days. This compares to a maximum detention period of 96 hours under other legislation in England, Wales and Northern Ireland. In contrast to the position under PACE, there is no power to release on police bail.

3.5. In 2017, we saw an increase in detentions under TACT as noted above in para 2.3. In the year to September 2017, of the 148 persons arrested in Great Britain under s41 TACT 2000:

- (i) 30% were held in pre-charge detention for less than 48 hours (after which time, a WOFD is required from the court). This compares to 18% in the year to Sep 2016.
- (ii) 76% were held for less than a week, similar to 75% in the year to Sep 2016.
- (iii) 35 people we held beyond a week (compared to 10 in the previous year), six of those were released only on the last day of the 14-day maximum period.¹⁶

Length of detention

3.6. The total detention time for each Operation Classic Subject is summarised below:

| | Time of arrest | Custody | Release | Total detention |
|------------------|-----------------------|--------------------|------------------------------|--------------------------------|
| Subject A | 22-03-2017 2145 | 22-03-2017 2259 | 24-03-2017 1655 | 1 day, 19 hours, 10 minutes |
| Subject B | 22-03-2017 2155 | 22-03-2017 2300 | 24-03-2017 1705 | 1 day, 19 hours, 10 minutes |
| Subject C | 22-03-2017 2155 | 22-03-2017 2155 | 24-03-2017 1715 | 1 day, 19 hours, 20 minutes |
| Subject D | 22-03-2017 2210 | 23-03-2017 0230 | 23-03-2017 2004 (On Bail) | 21 hours, 54 minutes |
| Subject E | 22-03-2017 2252 | 22-03-2017 2348 | 24-03-2017 1720 | 1 day, 18 hours, 28 minutes |
| Subject F | 23-03-2017 0020 | 23-03-2017 0120 | 24-03-2017 1707 | 1 day, 16 hours, 47 minutes |
| Subject G | 23-03-2017 0020 | 23-03-2017 0105 | 24-03-2017 1701 | 1 day, 16 hours, 41 minutes |

¹⁶ Home Office, *Operation of police powers under the Terrorism Act 2000 and subsequent legislation: Arrests, outcomes, and stop and search, Great Britain, quarterly update to September 2017*, Statistical Bulletin 24/17, December 2017.

| | Time of arrest | Custody | Release | Total detention |
|------------------|-----------------------|--------------------|------------------------------|------------------------------------|
| Subject H | 23-03-2017 0650 | 23-03-2017 1030 | 29-03-2017 1840 | 6 days, 11 hours, 50 minutes |
| Subject I | 23-03-2017 2120 | 23-03-2017 2306 | 25-03-2017 1603 | 1 day, 20 hours, 43 minutes |
| Subject J | 24-03-2017 0011 | 24-03-2017 0107 | 24-03-2017 2302 | 10 hours, 51 minutes |
| Subject K | 24-03-2017 0958 | 24-03-2017 1200 | 24-03-2017 1317 (On Bail) | 3 hours, 19 minutes |
| | n/a | 30-03-2017 1006 | 30-03-2017 1445 | 4 hours, 39 minutes |
| Subject L | 26-03-2017 1135 | 26-03-2017 1350 | 01-04-2017 1222 | 6 days, 47 minutes |

- 3.7. A WOFD was granted for Subject H on 24-03-2017 at 1720 (1 day, 10 hours and 30 minutes after he was arrested). The WOFD allowed detention until 30-03-2017 at 0650. Subject H was released before this time. A WOFD was granted for Subject L on 27-03-2017 at 1444 (1 day, 3 hours and 9 minutes after he was arrested). The WOFD allowed detention until 02-04-2017 at 1135. Subject L was released before this time. In both cases, written notice of the application was served to the detained persons and their solicitor, and the detained persons were present at the WOFD hearing with their solicitors, in line with Code H.
- 3.8. Subject D was released on bail after 17 hours and 34 minutes in custody. A subsequent decision was made to take no further action. Subject K was released on bail after 1 hour and 17 minutes in custody as she was not fit to be detained having just been released from hospital. Subject K returned to custody several days later for questioning.
- 3.9. As noted in my Annual Report 2016, there are circumstances where it would be reasonable and necessary to pause the detention clock, where aspects of pre-charge activity temporarily cease because the subject is not fit for detention (including, importantly, the availability of the detainee for police interview). The Home Secretary has accepted a recommendation by my predecessor to this effect. The facts surrounding Subject K provide a good example of this sensible proposal.

3.10. In relation to Operation Classific and more generally, the police consider the risk, threat picture and available evidence in relation to the individual when deciding whether to arrest under PACE or TACT. In my discussions with the SIO and investigation team, I have raised the issue of introducing a bail provision for TACT arrests. I add that this would be especially useful for cases involving juveniles (not relevant to Classific). I therefore **recommend** that this matter be reconsidered. It is right that the police have flexible powers, in the interest of flexible policing in response to major terrorist attacks such as Westminster Bridge.

Treatment in custody

3.11. Detention under both TACT and PACE must comply with the PACE Code of Practice: Code H for TACT arrests and Code C for PACE arrests.¹⁷ These contain detailed provisions for the detention, treatment and questioning by police officers of persons in custody. A summary of adherence to the key provisions is discussed below.

Rights and entitlements

3.12. Detained persons should be given their rights and entitlements immediately. A summary of time between arriving in custody suite and being given rights and entitlements is below.

| | Suite | Custody | Rights and entitlements |
|------------------|---------------|--------------------|--------------------------------|
| Subject A | West Midlands | 22-03-2017 2259 | 22-03-2017 2310 |
| Subject B | West Midlands | 22-03-2017 2300 | 22-03-2017 2357 |
| Subject C | West Midlands | 22-03-2017 2318 | 22-03-2017 2347 |
| Subject D | London | 23-03-2017 0230 | 23-03-2017 0300 |

¹⁷ Home Office, *PACE Code H 2017: Revised code of practice in connection with detention, treatment and questioning by police officers under the Terrorism Act 2000*, 23 February 2017.
Home Office, *PACE Code C 2017: Revised code of practice for the detention, treatment and questioning of persons by Police Officers*, 23 February 2017.

| | Suite | Custody | Rights and entitlements |
|------------------|---------------|--------------------|---|
| Subject E | West Midlands | 22-03-2017 2348 | 23-03-2017 0030 |
| Subject F | West Midlands | 23-03-2017 0120 | 23-03-2017 0150 |
| Subject G | West Midlands | 23-03-2017 0105 | 23-03-2017 0130 |
| Subject H | London | 23-03-2017 1030 | 23-03-2017 1045 |
| Subject I | London | 23-03-2017 0020 | 24-03-2017 0033 |
| Subject J | Manchester | 24-03-2017 0107 | 24-03-2017 0140 |
| Subject K | Manchester | 24-03-2017 1200 | n/a Immediately taken to doctors and found not fit to be detained. |
| | Manchester | 30-03-2017 1006 | 30-03-2017 1006 |
| Subject L | London | 26-03-2017 1350 | 26-03-2017 1400 |

3.13. The police explained that the delay of up to an hour in giving Subject B her rights and entitlements was due to the delay in securing a Hungarian interpreter. In addition, I recognise that the arrival of several Subjects at a relevant custody suite at the same time may necessitate some short delays in booking in procedure.

3.14. Operation Classific was a fast-moving, multi-centred investigation. Subjects were arrested and detained with high frequency during a short period of time; less than four days between the first and last arrests. Any review must be realistic, and mindful of the practicalities of policing in such a pressured environment. That said, I **recommend** that learning outcomes should be identified and considered, in circumstances where one of those arrested was not given her rights for in excess of one hour after arrival at the relevant police custody suite.

Risk assessment and Forensic Medical Examiners (FME)

- 3.15. When booking all twelve individuals into custody, custody officers carried out a risk assessment to determine whether the person was, or might be, in need of medical treatment or attention, required an appropriate adult (AA) or required an interpreter.¹⁸ The officers asked questions to determine whether the detained person was capable of understanding, required help reading or writing, the medical conditions of and medications taken by the detained person, mental health issues, history of self harm, alcohol or substance use and any special or religious needs.
- 3.16. Subjects were then allocated to a monitoring regime accordingly. All but one of the detained persons were assessed as Standard Risk and were to be monitored every hour. One subject was deemed High Risk owing to a pre-existing medical condition and was to be monitored every 15 minutes.
- 3.17. All those detained were seen by an FME as soon as possible, in line with Code H. Appropriate records were kept by FMEs and custody staff. The FME confirmed in each case whether an AA should be present with the detained person and, where appropriate, formulated a treatment/medication plan for the detained person. Subject K (arrested upon leaving hospital) was seen by the FME very shortly after arrival in custody and was found not fit to be detained. She was released immediately on bail and was given an AA for support when she returned to custody at a later date.
- 3.18. Under PACE Code H, TACT detainees held for more than 96 hours must be visited by an appropriate healthcare professional at least once every 24 hours. All detained persons were seen by an FME every day during their detention. Subjects with medical histories were provided with medication appropriately. In the case of one subject who refused to take medication, this was followed closely by the custody staff and the FME.

Review of detention

- 3.19. A person's detention must be periodically reviewed, with the first review carried out as soon as is reasonably practicable after the time of the person's arrest (Part II of

¹⁸ The National Appropriate Adult Network describes the role of an AA: to safeguard the interests of vulnerable people who are suspected of a criminal offence, ensuring that they are able to participate effectively and are treated in a fair and just manner. The police custody sergeant is responsible for identifying people who require an AA. These fall into two categories, children and vulnerable adults. Once the need has been identified, many police processes cannot take place without an Appropriate Adult.

Schedule 8 TACT 2000, in respect of arrests under the terrorism legislation). Subsequent reviews should be carried out at intervals of not more than 12 hours. No review will be carried out after a warrant extending detention has been issued. The reviewing officer can authorise continued detention if satisfied that there are grounds for doing so. A different regime applies in relation to arrests under PACE, where the first review should be carried out no later than six hours after the detention is first authorised, the second review no later than nine hours after the first, and subsequent reviews at intervals of no more than nine hours (section 40 PACE 1984).

3.20. This process was adhered to by custody staff in all TACT suites, including West Midlands which had the highest number of detainees (six at the same time). On one occasion, there was a one hour delay in review, the reviewing officer explained to the detainee that this was due to the high number of detainees at that time.

3.21. Detainees were visited at least every hour in each case, in line with Code H. One of the detained persons was visited every 15 minutes as he was deemed higher risk.

Right not to be held incommunicado

3.22. A person detained under section 41 is entitled to have one named person informed as soon as is reasonably practicable that they are being detained. This right may be delayed by a police officer of at least the rank of superintendent in particular circumstances [Sch 8, para 8 TACT in combination with PACE Code H].

3.23. This right was delayed with respect to Subject A, Subject B, Subject C, Subject E, Subject F, Subject I and Subject L. The reasons cited included interference with or harm to evidence of a serious crime, interference with or physical injury to any person and interference with the gathering of information about the commission, preparation or instigation of acts of terrorism. In each case, this was authorised and subsequently periodically reviewed. Where the circumstances were no longer satisfied, incommunicado was lifted and detained persons were able to speak to their nominated person whenever this was requested.

3.24. I have considered all of the above against the background of the urgency of the police investigation after Westminster Bridge. I have found no reason to criticise police use of the statutory incommunicado provisions.

Right to solicitor

- 3.25. Detained persons under section 41 also have the right to consult a solicitor as soon as is reasonably practicable, privately and at any time. This right may be delayed by a police officer of at least the rank of superintendent in particular circumstances. [Sch 8, para 8 TACT, s58 PACE, and PACE Code H]
- 3.26. This right was not delayed for any detained persons. Subject D did not request a solicitor. Other detained persons who initially declined were reminded at every opportunity of their right. When a solicitor was later requested this was facilitated by the custody officers. [In one case I note there were several requests before the detained person was able to see their solicitor again.] In one case, the police interview was stopped to allow the detained person to consult with his solicitor.
- 3.27. Detained persons were able to consult with solicitors privately. In the case of Subject I, the officers were able to hear parts of the conversation with the solicitor as Subject I was speaking with a raised voice. The officers noted on the custody record that they were not able to make out the conversation. Whilst I do not consider this to be a breach of the right to consult with solicitors privately, we must be mindful of the need to respect lawyer-client confidentiality, also known as legal professional privilege which is fundamental to the confidence any detainee should have in the custody system, and the criminal justice system in general. This was highlighted in The European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) Report following a country visit to England (the visit was conducted from 30 March to 12 April 2016)¹⁹ and mirrored in my Annual Report 2016.
- 3.28. The table below indicates requests and first meetings with solicitors in the case of each Subject. I offer no comment on delay times before the arrival of solicitors at the custody suite, because there may be multiple reasons for delay, and of course any communication between a Subject and his/her solicitor is subject to privilege.

¹⁹ *Report to the Government of the United Kingdom on the visit to the United Kingdom carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT)*, Strasbourg, 19 April 2017.

| | Suite | Custody | Requested solicitor | First meeting with solicitor |
|------------------|---------------|--------------------|-------------------------------|-------------------------------------|
| Subject A | West Midlands | 22-03-2017 2259 | 23-03-2017 1328 | 23-03-2017 1431 |
| Subject B | West Midlands | 22-03-2017 2300 | n/a (interpreter not present) | 23-03-2017 1714 |
| Subject C | West Midlands | 22-03-2017 2155 | 22-03-2017 2348 | 23-03-2017 1740 |
| Subject D | London | 23-03-2017 0230 | n/a | n/a |
| Subject E | West Midlands | 22-03-2017 2348 | 23-03-2017 2125 | 23-03-2017 2144 |
| Subject F | West Midlands | 23-03-2017 0120 | 23-03-2017 0151 | 23-03-2017 1824 |
| Subject G | West Midlands | 23-03-2017 0105 | 23-03-2017 1218 | 23-03-2017 1427 |
| Subject H | London | 23-03-2017 1030 | 23-03-2017 1045 | 23-03-2017 1638 |
| Subject I | London | 23-03-2017 2306 | 24-03-2017 0034 | 24-03-2017 0240 |
| Subject J | Manchester | 24-03-2017 0107 | 24-03-2017 1023 | 24-03-2017 1041 (phone) |
| Subject K | Manchester | 24-03-2017 1200 | n/a | n/a |
| | Manchester | 30-03-2017 1006 | 30-03-2017 1006 | 30-03-2017 1036 |
| Subject L | London | 26-03-2017 1135 | 26-03-2017 1401 | 26-03-2017 1630 |

Right to Consular assistance

3.29. If a detainee is a foreign national, there is a requirement (where requested) to inform the Embassy, Consulate or High Commission of their citizens' detention. This right is not affected where a suspect is held incommunicado. All detained persons (foreign nationals) were asked if they wanted their Embassy contacted and, where requested

by the detained person, were able to speak to their Embassy, in this case Hungary and Saudi Arabia.

Biometric data

3.30. Officers are empowered under paragraph 10 of Schedule 8 TACT 2000 to take fingerprints, intimate and non-intimate samples from detainees with or without their consent (where a police officer of at least the rank of superintendent authorises this). Where a person has been arrested in relation to a terrorist offence but not charged, biometric data can be retained for 3 years with consent of Biometrics Commissioner (+ possible 2 year extension by a District Judge).²⁰

3.31. Fingerprints, photographs and DNA samples were collected from each of the detained persons when in custody. Consent was obtained in each case. In one case, biometric data was collected following a decision to take no further action against the person in custody. I asked the police if this was necessary. Their response was that in some cases there is not enough to proceed with further detention/charge and so the individual is released, but new evidence/intelligence may come to light meaning the individual would be rearrested. In this case, the forensics team was looking at outstanding marks in the vehicle Masood used. It was necessary to have the biometrics data in the event anything comes to light.

Detention conditions

3.32. As mentioned earlier, I did not receive any response or comment from any of the twelve individuals detained under this investigation. I am reassured that welfare reviews were carried out daily for each detained person by a reviewing officer independent of the investigation. The officer in each case asked the detainee whether their needs were being met and whether there were any problems they wished to discuss. The ICVA reports I have seen did not flag up any problems during detention (though I am conscious not all the detainees were seen by visitors). The reports did flag up one of the detainees being worried about his children (he is a single father). The police facilitated contact with his children in that case.

²⁰ Commissioner for the Retention and Use of Biometric Material, *Annual Report 2016*, September 2017.

3.33. The only other insight I had into detention conditions was through the custody records. There was nothing recorded that gave me cause for concern. When detainees were released, they were asked by custody officers about their time in detention. Subject A stated he was looked after well. Subject B stated that custody staff were kind and catered for her needs. Subject E stated 'it was okay'. Subject F stated he was happy with the treatment he received. It is also worth noting, that there have been (at the time of writing, February 2018) no formal complaints by any individuals detained relating to their treatment in custody.

Police interviews

3.34. Police interviews with Subjects ranged from 10 minutes to 158 minutes in length. Where requested, interpreters and solicitors were present at all interviews. Detained persons were given time to consult privately with their solicitors before interview.

| | Number of interviews | Total interview time (mins) |
|------------------|----------------------|-----------------------------|
| Subject A | 1 | 86 |
| Subject B | 1 | 95 |
| Subject C | 1 | 96 |
| Subject D | 2 | 97 |
| Subject E | 1 | 78 |
| Subject F | 2 | 128 |
| Subject G | 2 | 91 |
| Subject H | 5 | 381 |
| Subject I | 4 | 191 |
| Subject J | 2 | 148 |
| Subject K | 3 | 101 |
| Subject L | 2 | 101 |

3.35. In preparation for this report, I have been provided with transcripts of the police interviews with each detainee, together with copies of every custody record. For reasons that are perhaps obvious (commencing with the need to preserve the anonymity of persons who were arrested and detained but not charged with any offence), it is not possible to attach these documents to this report. I have therefore summarised the interviews into the short paragraphs which follow, in order to provide at least some insight into the general content.

3.36. All interviews were carried out under caution.²¹ Police officers explained to Subjects in every case their rights and, where appropriate, confirmed comments detainees had made during their arrest. Police officers came across as patient and polite throughout the transcripts.

Subject A, Subject B, Subject C and Subject E

3.37. All Subjects were cooperative and answered all questions. Masood was a previous tenant at their current address. All four stated in interview that they did not know Masood. Subject B stated she may have recognised Masood as the previous tenant who showed them around the property at the time and they may be receiving old post for previous tenants. All subjects provided the police officers with passwords to their devices and social media accounts when requested. When asked about their religion and political views, two subjects stated that they had no religion and two subjects were non-practicing Catholics. They all stated they had no particular political beliefs. Subject A was asked detailed questions about his finances.

Subject D

3.38. Subject D was cooperative with the police and answered all questions. She stated in interview that she received a text message from Masood with a pdf named 'Jihad'. When she saw the incident on Twitter she was worried he might be involved and tried several times to get a hold of him. She also called an associate of Masood with whom he was supposedly travelling that month (Subject H). When asked if Masood had any other associates, she provided the police with details other associates with whom Masood was in regular contact.

Subject F and Subject G

3.39. Their address was previously linked to Masood. Subject F stated the address was a premise for homeless people and they were referred by a charity that works with young people; both Subjects had just moved in to the address hours before they were arrested. Both stated they did not know Masood. When asked about their religion,

²¹ "You do not have to say anything. But it may harm your defence if you do not mention when questioned something which you later rely on in Court. Anything you do say may be given in evidence."

Subject F stated he was a non-practicing Muslim and had no particular political beliefs. Subject G stated she was a non-practicing Muslim. They were cooperative with the police and answered all questions. Both provided their device and social media account passwords to the police.

- 3.40. During the time they were in custody, the police discovered that a relative of Subject F was in contact with a relative of Masood. Subject F stated he did not know any of Masood's family or his relative's friends.

Subject H

- 3.41. Subject H was initially not forthcoming as to the full extent of his relationship with Masood. He stated he only met Masood a few weeks ago and they discussed the potential sale of his car and Masood had visited his home for this purpose only. He denied any knowledge of the attack and stated he was against any violence and would have reported Masood had he had any suspicions about him. He complained in interview of the circumstances of his arrest and the impact on his children.

Subject I

- 3.42. Subject I fully cooperated in interview. He denied any knowledge of the attack. He explained he was reluctant to hand over his phone because he needed to be in contact with his manager and others at work. When asked his religious and political beliefs, he stated he is a strict Muslim but ignores the situation in Syria as he finds it too depressing. He stated in interview that he was told by police they were taking him home, but they drove him to Southwark TACT Suite in London instead.

Subject J and Subject K

- 3.43. Subject J stated that he was a PhD student and his relationship with Masood was strictly a professional student/teacher relationship. He provided a full account for financial transactions relating to educational work completed. Subject K, his wife, confirmed his account about the financial transactions and relationship with Masood.

Subject L

3.44. Subject L provided a no comment first interview on the advice of his solicitor.²² In the second interview he stated he met Masood at the gym and Masood was his mentor and assisted him with his separation and child access issues. He stated he had not seen Masood for some time as Masood stopped frequenting the gym. He denied any knowledge of the attack. He expressed frustration at the length of time in custody.

Relevance of questions asked in interview

3.45. Given the opportunity to reflect upon the content of the interviews conducted with detainees throughout Operation Classific, I should say something about questioning in two specific areas which I have noted, namely (a) the finances of the detainee, and (b) questions about religion. There will be understandable concern about the latter, in particular.

3.46. I draw a parallel here to questioning by Ports officers under Schedule 7 of TACT 2000. In this regard, I discussed the basis upon which Schedule 7 powers are used, and made a **recommendation** in my Annual Report as to the introduction of a new threshold for the exercise of those powers. With the benefit of important guidance from the UK Supreme Court in the case of *Beghal*,²³ it is clear that no-one should be stopped, still less detained, upon the basis of their ethnicity or religion alone. Indeed, this is already enshrined in the Code of Practice.²⁴

3.47. By the same reasoning, Operation Classific did not lead to the arrest and detention of any person based on ethnicity or religion. When challenged by me as to why questions about religious belief and adherence were asked during post-arrest interviews, Operation Classific officers pointed to the religious extremist nature of Masood's views and intention, evidenced in his final communications before crossing Westminster Bridge on 22nd March. The police reasonably believed there was a 'pro-Islamic State' element to the attack that day.

²² Caution given at the start of interview: "You do not have to say anything. But it may harm your defence if you do not mention when questioned something which you later rely on in Court. Anything you do say may be given in evidence."

²³ *Beghal v DPP* [2015] UKSC 49

²⁴ Examining officers and review officers under Schedule 7 to TA 2000: Code of Practice, March 2015. Amended by: Home Office, Circular 001/2016: schedule 7 to the Terrorism Act 2000, 15 March 2016.

3.48. I regard this as providing a justification for the religious context of some of the questions posed in interviews during Operation Classific. However, every interview is case-specific, and it does not follow that it would be appropriate to ask very detailed religious questions in every case where a Muslim has been arrested on suspicion of terrorism-related activity (TRA). I therefore **recommend**, in the interest of clarity, that the police take this opportunity to review training on the circumstances and extent to which such questions will be necessary in future interviews. I accept, however, that questioning detainees about religion or any other matter occurs with careful thought and planning. Reviewing high-profile investigations can only add to the learning and training for the future.

3.49. As to questions concerning the finances of detainees, this would of course be central in any case where issues of funding terrorism are engaged. In other cases, it will again be a case-specific decision. Whilst it is a common feature of 'modern' terrorism that attack planning and execution is generally carried out at low financial cost due to the lack of sophistication to most attack planning, for many years the National Terrorism Financial Investigation Unit (NTFIU) has conducted an in-depth analysis of the financial background of anyone arrested/charged with TRA. Having reviewed the interviews conducted during Operation Classific, it seems to me that questions as to personal finances were generally appropriate and proportionate. That said, it should be **noted** that intrusive questioning into the private financial affairs of a person under arrest for TRA should always be considered carefully and advanced only with authorisation, granted according to the needs of the investigation in hand.

Release from custody

3.50. All twelve subjects in this investigation were released with no further action.

3.51. The police did not find any evidence linking Subjects A-C and Subject E to Masood (beyond their shared address though they did not overlap by occupying the premises at the same time) so they were released. The significant number of devices and items seized are relevant to their detention times: a total of 53 exhibits were seized at their address, including 30 high-tech devices.

3.52. Subject D was released on bail within 24 hours, after she provided police with all the information they required.

- 3.53. Subject F and Subject G had only recently moved into their address. Could contact have been made with the charity that referred them to that address to facilitate their earlier release? Having said that, the link found between Subject F's relative and Masood's relative provides justification for the longer detention.
- 3.54. Subject I was released within 48 hours following cooperation in police interviews.
- 3.55. Subject J was released relatively quickly, police were conscious he had a young family member who was very sick. They were able to confirm that his link to Masood was purely professional and he was released with no further action. Subject K was appropriately admitted to bail when found not fit for detention. She was later released within 5 hours of returning to custody, after questioning.
- 3.56. Subject H and Subject L were detained for the longest times, relative to all other Classific Subjects. However, their links to Masood and his activities prior to Westminster Bridge, discussed above, justify examination over longer time, and I note that WOFD hearings resulted in judicial extensions to detention.

4. CONCLUSIONS AND RECOMMENDATIONS

Was the TA 2000 appropriately used?

- 4.1. When considering a specific police investigation, any reviewer must take care to place him/herself 'in the moment', in other words to be aware of the overuse of hindsight. This applies, as lawyers would say *a fortiori* or all the more so to me. I have attempted to read events as they happened, and to place myself in the position of, for example, the SIO when taking important decisions under pressure of time and circumstance and in the aftermath of a terrorist attack which sent shockwaves around London, this country and beyond.
- 4.2. It is against that background that Operation Classific amounted to what in my view was an impressive, flexible, fast-moving investigation which appeared to face significant challenges, but which reached fruition over several days, where a longer exercise might have been understandable or expected. From initial slim pickings, namely sparse evidential capture from the few belongings left behind by Masood when exiting his hired vehicle on Palace Green, a command structure was in place within a very short period of time, and the interoperability of geographically remote police teams proved its worth. Coordination between London and Birmingham in particular was rapid and effective. Further, it must be remembered that this urgent work was undertaken without any current intelligence information (because Masood was a closed SOI, see David Anderson QC's report findings, cited above). Further, the physical context of the murderous terrorist attack in the heart of political London meant that literally thousands of individuals were contained in the Palace of Westminster and Westminster Abbey, any number of whom were potential witnesses to what had occurred. To this number must be added all pedestrians and motorists in the vicinity of Westminster Bridge and on both sides of the Thames embankment as the attack unfolded over 82 sickening seconds. Therefore, I accord a wide margin of appreciation to the police team under their SIOs.
- 4.3. A consequence of the circumstances and pace of this urgent criminal investigation turned out to be the arrest and detention of 12 people whom it transpired were not culpable and who were consequently all released without charge and, in police language, NFA'd (No Further Action). Having analysed the hour-by-hour events as they unfolded, I conclude that it would be wrong to criticise Op Classific for the number of arrest and detention authorisations. Doing the best that I can to recreate the

investigation 'in the moment', based upon all of the investigation materials made available to me, it seems to me that each such decision was reasonable and proportionate at the time. Indeed, appropriate flexibility was demonstrated, for example when s41 TACT arrest powers were not used in the case of subject K. This is to be commended.

- 4.4. Having reached the conclusions above, I nonetheless **recommend** that lessons should be learned from the outcomes in this case.

Recommendations

- 1) I **recommend** that greater thought and clarity be given to the question whether and when it is necessary to transport a detainee sometimes hundreds of miles from their place of arrest. I anticipate that this recommendation will include consideration of TACT custody suite capacity, the availability and deployment of police interview teams, an assessment of the significance of individual Subjects to the investigation as a whole, and perhaps other factors.
- 2) In my discussions with the SIO and investigation team, I have raised the issue of introducing a bail provision for TACT arrests. I add that this would be especially useful for cases involving juveniles (not relevant to Classific). I therefore **recommend** that this matter be reconsidered. It is right that the police have flexible powers, in the interest of flexible policing in response to major terrorist attacks such as Westminster Bridge.
- 3) I **recommend** that learning outcomes should be identified and considered, in order to ensure that every detainee is given their rights at the earliest moment after arrival at the relevant police custody suite.
- 4) Every interview is case-specific, and it does not follow that it would be appropriate to ask detailed religious questions in every case where a Muslim has been arrested on suspicion of TRA. I therefore **recommend**, in the interest of clarity, that the police take this opportunity to review training on the circumstances and extent to which such questions will be necessary in future interviews. I accept, however that questioning detainees about religion or any other matter occurs with careful thought and planning. Reviewing high-profile investigations can only add to the learning and training for the future.

ANNEX A - THE INTELLIGENCE BACKGROUND RELATING TO MASOOD

David Anderson QC, *Attacks in London and Manchester: Independent Assessment of MI5 and Police Internal Reviews*, December 2017, paras 2.11-2.29.²⁵

Khalid Masood (Westminster)

Masood: summary

- 2.11 Khalid Masood, though previously known both to the police (for offences of violence prior to 2003) and to MI5 (for association with extremists, particularly between 2010 and 2012) was a closed SOI at the time of his attack.²⁶ No intelligence was being gathered on him, and neither MI5 nor the police had any reason to anticipate the attack.

Masood: personal life

- 2.12 Khalid Masood was born Adrian Russell Elms in 1964, and grew up in Kent. He also used the surname Ajao, and in 2005 changed his name to Khalid Masood, having converted to Islam some years earlier.
- 2.13 Khalid Masood had two children from a relationship in the 1990s, and two others from his second marriage, in 2007. In 2005-06 and again in 2008-09 he taught English in Saudi Arabia. He lived variously in Eastbourne, Crawley and Luton, before settling in Birmingham in 2012.
- 2.14 Prior to the attack in Westminster on 22 March 2017, both the police and MI5 had some limited (and largely historic) knowledge of him. This is shortly summarised below.

Masood: police history

- 2.15 The majority of intelligence held on Khalid Masood was crime-related. He was convicted seven times between 1983 and 2003 for offences ranging from criminal damage to possession of an offensive weapon, threatening behaviour, assault occasioning actual bodily harm, assault on police and unlawful wounding (a stabbing in the face with a flick knife). It is believed that while serving a two-year prison sentence for the latter offence, imposed in July 2000, he converted to Islam.

²⁵ The text in this Annex is copied directly from the Anderson Report, December 2017. All footnotes therefore refer to the Anderson Report.

²⁶ For an explanation of closed SOIs, see 1.26 above.

- 2.16 Significant crime-related intelligence from Sussex Police databases between 2000 and 2003 details Khalid Masood's involvement in drug dealing, racketeering and enforcement.
- 2.17 Khalid Masood's final release from prison (from a six-month sentence for possession of an offensive weapon) was in 2003, when he was 38. Since that time, there is no record of him committing any criminal offence.

Masood: MI5 history

- 2.18 Khalid Masood had been the subject of active investigation by MI5 between February 2010 and October 2012. At the time of the attack he was a closed SOI.²⁷
- 2.19 The first trace of Khalid Masood in MI5 records dates to April 2004, when a telephone number later associated with him appeared in the contacts list of an SOI in an MI5 and police operation that investigated and subsequently disrupted a UK-based terrorist network that aimed to produce and use home-made explosives in the UK. Khalid Masood appears to have had no direct connection with that plot. Other selectors used by him,²⁸ but not attributed to him until 2010, appeared on the periphery of various spin-off investigations between 2004 and 2009, via contact with a long-standing associate.
- 2.20 Khalid Masood came more fully to the attention of MI5 in 2009, on the edge of investigations into a group of individuals seeking to travel to the Federally Administered Tribal Areas of Pakistan (FATA) for al-Qaida-linked terrorist training. Khalid Masood was based in Saudi Arabia for extended periods, and it was thought that he could be identical with an individual in Saudi Arabia who was thought to be in a position to facilitate such travel. Though it later turned out that Khalid Masood was not that individual, he was placed under active investigation as an SOI for the first time on 17 February 2010, so as to enable his full identification and assess his level of involvement in extremism.
- 2.21 The intelligence that prompted investigation of Khalid Masood was low-level, uncorroborated reporting. Khalid Masood was not part of the principal reason that any of the investigations mentioned above was of concern to MI5, and was one of many individuals of similar profile that were investigated during that period.
- 2.22 On 2 March 2010, two weeks after he had become an SOI, Khalid Masood was downgraded from a holding code under which he was assessed to pose a threat to national security to a holding code under which it was assessed that he might pose a threat to national security.²⁹ In December 2010 a review of the operation

²⁷ For an explanation of closed SOIs, see 1.26 above.

²⁸ Examples of selectors are phone numbers and email addresses.

²⁹ For an explanation of holding codes, see 1.25 above.

with which he had been linked recommended that Khalid Masood should be closed as an SOI. None of the intelligence relating to him suggested attack planning aspirations. He was formally closed as an SOI in October 2012.

- 2.23 Between 2012 and 2016, Khalid Masood appeared intermittently as a contact of a number of SOIs, including individuals linked to the proscribed organisation ALM in Luton and Crawley. There is no intelligence to suggest that Khalid Masood was an ALM member, though in 2013 he was known to have expressed contentment that violent actions such as the World Trade Center attacks attracted people to Islam. Neither Khalid Masood's contacts nor those comments were considered to reach the threshold for re-opening an investigation into him.

Masood: post-attack intelligence

- 2.24 The post-incident investigation commenced immediately after the Westminster attack and shed light on Khalid Masood's preparation for his attack.
- 2.25 He researched violent attacks, knives, Daesh and vehicle types online as early as April 2016.
- 2.26 Between December 2016 and March 2017 he informed members of his family that he was considering working overseas, but his job and visa applications were unsuccessful. He sold his car and made efforts to say goodbye to members of his family.
- 2.27 On 9 March 2017, Khalid Masood purchased two Sabatier carving knives from Tesco in Birmingham, and on the same day sent himself an email with the subject line "Retaliation". On 15 March he was in possession of a document entitled "Jihad in the Quran and Sunnah", with his photograph on the front page and multiple extracts from the Quran that could be claimed to be supportive of jihad and martyrdom. Having made a down-payment on 8 March, he collected on 16 March the Hyundai Tucson that was used in the attack.
- 2.28 On 19 March, Khalid Masood conducted reconnaissance of Westminster Bridge in person and online, and browsed YouTube for videos relating to terrorism (including suicide attacks). Further similar browsing was noted over a variety of dates. Subsequent searches of various media devices belonging to him concluded that he appeared to advocate a conservative, Saudi-influenced, Salafist interpretation of Islam, but noted that his relatively small digital collection did not contain much of the standard jihadi content that is normally found in investigations involving Islamist-inspired terrorists.

2.29 A few minutes before the attack on 22 March, Khalid Masood shared his Jihad document with numerous WhatsApp contacts; shortly afterwards it was sent via iMessage and SMS to additional contacts.

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