

Jean Charles de Menezes shooting: Metropolitan police found guilty of endangering the public

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On Thursday, a jury found the Metropolitan Police guilty of breaking health and safety laws over the shooting death of innocent Brazilian electrician Jean Charles de Menezes on a London underground carriage on July 22, 2005.

The verdict is significant. Not because of the intrinsic value of the trial itself—the terms of which were intended to once again prevent anyone being held accountable for the public execution of a blameless man. But because it flatly contradicts the specious claim at the centre of the government's so-called “war on terror”—namely that its overturning of fundamental civil liberties is justified so as to protect innocent lives.

From the moment of Jean Charles's killing by seven shots to the head, there has been a determined attempt to cover-up the implications of this seminal event. Despite two investigations by the Independent Police Complaints Commission, there has been no criminal prosecution against any of the key figures involved, including Metropolitan Police Commissioner Sir Ian Blair and Commander Cressida Dick, who was in charge of operations that day.

The terms of the trial were strictly limited. Any consideration of the legality of Jean Charles's killing was ruled out, and no evidence was taken from those officers who pulled the triggers, nor members of the public who witnessed the killing. It concentrated solely on the Metropolitan Police's command systems and decision-making process, and the penalty is a paltry £175,000 fine, which the judge admitted would be borne out of the public purse.

Writing on the outcome, the *Guardian* editorialised, “Many will find it remarkable that the only legal consequences faced by the police have been for a breach of health and safety.... But there are many mitigations: above all the fact that the shooting took place a day after a failed terror attack on London, a fortnight after a successful one. The police, hunting for four suicide bombers, were under intense pressure. They acted in what they thought were the interests of public safety.”

The jury's verdict, however, implicitly rejects any such “mitigations.” For the first time, events surrounding Jean Charles's death were subjected to public review, even if only in the most narrow sense. And, against defence claims that the police believed their actions were necessary in order to protect the public, it took the jurors less than 24 hours to find that the police's actions had exposed “the people of London to danger because they are not doing what is reasonable and what is practicable.”

Evidence presented at the trial proved this beyond question. It established that the police had identified the south London home of Hussain Osman—one of those involved in the failed bomb attacks on the capital the previous day—by 4:55 a.m. on July 22.

Yet the police made no move to arrest Osman. Instead, at 6 a.m., a surveillance team was posted at the communal apartment block where he lived, while a special armed response unit, SO19, was assembled and

briefed.

For reasons still unclear, it was almost four hours before the armed unit was ready. In the meantime, some six people had left the apartment block without being identified and followed.

At 9:30 a.m., Jean Charles left for work. The court heard that initially he was not positively identified as the suspect, although Dick said this subsequently changed.

In court, Clare Montgomery for the prosecution pointed to the inconsistencies in the police's actions. “Jean Charles, who within minutes of his emergence the police believed might be a suicide bomber, was allowed to walk to a bus stop, get on a bus, get off the bus, get on again, and finally enter Stockwell tube station.”

By not attempting to intercept a person they believed to be a suicide bomber at any point during this time, the police “had actually increased the risk” to the public, she said.

Asked about the delay, Commander John McDowell said there was “a feeling that there was a bit of time,” as it was believed no attack would be made until the rush hour, when there would be a “larger number of people about.”

Why did the police decide it was okay to wait until the rush hour, when the potential danger to the public would be far graver? That question was not answered in court. Nor was it the only inconsistency in police accounts.

The court heard that Jean Charles was trailed on his journey by a plainclothes police officer identified as “Ivor.” He boarded the underground train with Jean Charles, and it was “Ivor” who held open the doors to the carriage to enable the armed police unit to board. As the SO19 unit came hurtling across the platform to the train, the court heard that “Ivor” had turned to point at Jean Charles and shouted to the officers, “He is here.”

As the prosecution noted, if Jean Charles had indeed been a bomber, he would have detonated his bomb at this point. “The fact is that London and, in particular, the occupants of that tube carriage were lucky Jean Charles was not a bomber,” it said.

Montgomery made another telling point. Members of the public had also been put at risk, she continued, “because the failure to stop Jean Charles in a controlled and considered manner above ground made it far more likely—perhaps even inevitable—that he would be shot when he was stopped underground.

“In that environment it was far more likely the police would decide that shooting him was the only safe way to detain him. And when the time came to stop him deep in the underground station it was a matter of luck that others were not killed or injured.”

Why was the “inevitable” allowed to happen? Again, no answers were forthcoming during the trial. The prosecution concentrated on the

confusion and haphazard command arrangements, which it claimed meant that no one was effectively in charge.

But the evidence indicated that someone, somewhere had determined that police would shoot to kill that day.

In the immediate aftermath of Jean Charles's death, it emerged that some two years before, the police and government had secretly adopted a policy of shoot-to-kill, codenamed Operation Kratos.

At the trial, Dick denied giving the order to fire. She said she had only told armed officers to "stop" Jean Charles and had expected a "conventional armed challenge."

Yet the court heard that SO19 were armed with specialised bullets, used by US marshals, designed to kill instantly. Chosen because of their fatal impact—they "immediately incapacitate" the victim and flatten, rather than pass through the other side of a body—the SO19 officers fired a total of 11 bullets at Jean Charles.

The jurors also heard how "Ivor" had been dragged off the train by an armed officer, and had a gun levelled against his chest and head.

"I was aware that the long-barrelled weapon was levelled at my chest and the barrel of a gun was at my head," "Ivor" said. "Given this I held out my hands and shouted 'police.' "

"I could hear several gunshots and shouting and screaming," he continued. "The scene was extremely violent, extremely noisy and obviously distressing. Members of the public were emptying the carriage, obviously in distress. There was a lot of gun smoke. It was obviously a shocking incident."

The jurors were also told that the driver of the underground train, believing a terrorist attack to be under way, ran down a tunnel to escape, where he was also pursued by armed officers.

The police had already been caught out in a tissue of lies surrounding Jean Charles' death—including claims that he had aroused their suspicions by wearing bulky clothing on a summer's day and vaulting a ticket barrier to evade arrest. In fact, he had been wearing light clothing, carried no backpack and had entered the station at a leisurely pace.

In court, the police's defence kept up the disinformation. The police had shown a composite photograph of Jean Charles and Osman to prove that it was reasonable to have mistaken them. But they were accused of doctoring the photograph "by either stretching or resizing, so the face ceases to have its correct proportions."

Forensics consultant Michael George said he had tried and failed to replicate the police's picture. In the composite, Jean Charles's face appeared to have been brightened so as to lose some "of the definition of some of the characteristics" in the original picture. George said the effect was to make Jean Charles and Osman look more alike.

The defence also claimed that traces of cocaine had been found in Jean Charles's system, suggesting this could account for him acting in an "aggressive and threatening manner" when challenged by police.

But the jury heard that Jean Charles "did nothing to deserve the death that you have heard so vividly described," and that "His conduct that morning was no different from the conduct of hundreds of others, of commuters who come into the city."

"Whoever he was, wherever he came from, he was entitled to the protection of the law."

The court was shown CCTV footage of the armed police unit storming into the underground station, as terrified passengers fled. After the verdict, Anna Dunwoodie, who was in the same carriage as Jean Charles when he was shot, told the BBC about his killing.

"It didn't feel to me like I was in the middle of a police operation," she said. "The men who came running in seemed quite chaotic. I'd describe them as slightly hysterical."

"Jean Charles, to my knowledge, did nothing out of the ordinary. I didn't notice him until he had a gun pressed to him. It felt to me like he was someone who was being picked on at random because he was nearest

to the door."

His shooting was "horrific" and "bloody," she said.

Throughout the hearing, the defence insisted that police should not have faced any prosecution, and decried Dick's questioning as if she were "a common criminal."

"The prosecution are attempting to dictate to the police how they should be doing their job," it continued, arguing that a guilty verdict "would have the effect of putting handcuffs on the police and seriously impede their effectiveness in combating serious crime."

Even the judge was moved to reject this, stating that the police were not "above the law."

It has subsequently emerged that the trial was nearly abandoned on two occasions. On Friday, the *Daily Mail* revealed how a series of "astonishing" events "behind the scenes" had almost caused it to be halted. It reported that armed police had raided the home of the ex-partner of one of the jurors, apparently looking for a gun, during which her child was taken away.

In court the following day, senior police officers "tried to have the whole panel discharged," the *Mail* reported, suggesting that the juror "might now be biased against the police and may also have 'contaminated' the rest of the jury."

Ronald Thwaites for the defence told the judge that he had taken "instructions from the highest level and my application is for the jury to be discharged in its entirety." Justice Henriques rejected the application and discharged the juror, saying he was mindful of the public cost of the trial, as well as the feelings of Jean Charles's family, "who have been waiting a very, very long time for this case to come on."

Subsequently, the newspaper continued, the defence had argued that the trial should be stopped, claiming that the judge's summation was "entirely pro-prosecution, unbalanced and totally lacking in objectivity" and indicated that any "unjust conviction" would be taken to appeal.

The *Mail* reported that the move came at the end of the trial, just as the judge was completing his summing up to jurors. However, the judge "rejected an application to disqualify himself, halt the trial and discharge the jury," it said.

Following the verdict, every effort has been made to portray Jean Charles's killing as an unfortunate accident. Justice Henriques said it was "very much an isolated breach brought about by quite extraordinary circumstances."

Nonetheless, the Liberal Democrats and Conservatives have called on Sir Ian Blair to do the honourable thing and resign. Their demand has thus far been rejected by the government, which has defended the Metropolitan Police. Ken Livingstone, Labour's London mayor, even complained that the verdict would make it more difficult for the police to protect the capital against terrorism.

Whether this line will hold is another matter. There is great unease that the failure of any police officer to be liable for Jean Charles's death will fuel calls for a full public inquiry—a demand raised by his family immediately after the verdict.

The powers-that-be want to avoid such an outcome at all costs. Their concern is not only that the full truth of Jean Charles's brutal slaying will be revealed, but that the entire premise of the "war on terror" as a justification for preemptive war will be laid bare.



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